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ABSTRACT

This report documents civil violations and discriminatory actions against Roma in Romania, contending that, due to the Romanian government's inadequate efforts to bring perpetrators of anti-Romani crimes to justice and to eradicate discrimination against Roma, a climate of impunity surrounding anti-Romani actions has taken deep root. Chapter 1 introduces the problem. Chapter 2 offers a brief history of Roma rights in Romania. Chapter 3 details how Roma are denied justice when they complain of human rights abuse. Chapter 4 addresses the culture of impunity to which such widespread failures of justice have given rise, describing recent cases of violence against Roma in Romania. Chapters 5 and 6 examine abuses of political rights of Roma in Romania and child homelessness and institutionalization. Chapter 7 presents discrimination issues, highlighting discrimination in access to housing, medical care, employment, and goods and services. Chapter 8 discusses education and educational segregation. Chapter 9 comments on the recently adopted government program on Roma. The report concludes with a series of recommendations to the Romanian government aimed at improving human rights for Roma. An appendix presents the Romanian Government Ordinance on Preventing and Punishing All Forms of Discrimination. (Contains 87 references.) (SM)

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Human Rights Abuse of Roma in Romania

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A REPORT BY THE EUROPEAN ROMA RIGHTS CENTER

European Roma Rights Center

STATE OF IMPUNITY

Human Rights Abuse of Roma in Romania

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"The policeman with dark hair took out a gun and said: 'I do not help the Gypsies, come and set fire to them.' [...] Two police cars were driving around Hădăreni, announcing through their loud-speakers: 'Only the houses of the Gypsies should be set on fire, the houses of the Romanian people should not be burned!'"

Testimony during November 13, 1997, proceedings before the Târgu Mureş District Court, of Mr Pavel Bucur, a defendant in the Romanian state's case against perpetrators of the 1993 pogrom against the Roma of Hădăreni, in northwestern Romania.

1. INTRODUCTION

In the latest census in Romania, conducted in January 1992, 409,111 people out of a total population of approximately 23 million identified themselves as Roma. It is widely acknowledged, however, that this figure is inaccurate and a gross underestimate; unofficial estimates of the actual figure of Roma in Romania range between 1.8-2.5 million.[1] If these are accurate, Roma constitute the largest minority in Romania and Romania has the most Roma of any country in Europe.

In the period following the violent end of the Ceauşescu regime in 1989, the human rights situation of Roma in Romania received extensive attention in human rights reports and, indeed, in popular culture. The main engine for such attention was a wave of anti-Romani pogroms taking place primarily in the period 1990-1993. For example, in 1991, *Human Rights Watch* reported that:

> Ethnic hatred and violence directed against Gypsies in Romania has escalated dramatically since the 1989 revolution. During the last 20 months, rarely a month

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[1] See, for example, Liegeois, Jean-Pierre and Nicolae Gheorghe, *Roma/Gypsies: A European Minority*, London: Minority Rights Group, 1995. The disparity between the real numbers of Roma in Romania and the census figures is undoubtedly influenced by the strong anti-Romani prejudice in Romanian society, which discourages Roma from officially acknowledging their ethnicity.

> went by without another Gypsy village being attacked. Gypsy homes have been burned, their possessions destroyed, they have been chased out of villages, and in certain areas, have not been allowed to return to their homes. At least five Gypsies have been killed during mob violence. Many have been beaten. Yet there has been an absolute failure by Romanian authorities to investigate and prosecute those responsible for the violence.[2]

Reports of pogroms against Roma in Romania extended both to popular literature and film. For example, Isabel Fonseca's *Bury Me Standing*, a best-selling journalistic account of the lives and culture of Roma in Eastern Europe, contains the following description of the pogroms in Romania, taken as the paradigmatic case of violence against Roma in post-communist Eastern Europe:

> Days after the murder of the music student, twenty-six houses in Bolintin Deal were destroyed or badly damaged, beginning the ripple of retaliation which was to gain momentum, rolling through neighbouring villages and eventually to distant parts of the country. A month later in next-door Bolintin Vale, eleven houses were destroyed, and later the same week, just down the road in Ogrezeni, another fourteen. All the houses belonged to Gypsies. In each case, the Romanian attackers were described as having moved through the village in a single swath, a creature soon so familiar as to seem organic: a low life-form, the mob – but one carrying burning sticks, and chanting.[3]

Similarly, dramatic tension in the plot of *Gadjo Dilo*, a 1997 film by Tony Gatlif, is constructed around a very loosely fictionalised account of a post-1989 pogrom in Romania.

Due to the large Romani population in Romania and the extremity of the situation of Roma there, the *ERRC* has made Romania a priority country since beginning activity in 1996.

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[2] See Human Rights Watch, *Destroying Ethnic Identity: The Persecution of Gypsies in Romania*, New York: A Helsinki Watch Report, September 1991. For more information on cases of mob violence against the Roma in Romania, see European Roma Rights Center, *Sudden Rage at Dawn: Violence against Roma in Romania*, Country Report series, Budapest, 1996, pp.12-20. The report is also available at: **http://errc.org/publications/reports/index.shtml**; Amnesty International, "Romania: Broken Commitments to Human Rights", May 1995, pp. 28-31; Human Rights Watch/Helsinki, "Lynch Law: Violence against Roma in Romania", Vol.6, No. 17, November 1994, pp.35-42.

[3] Fonseca, Isabel, *Bury Me Standing: The Gypsies and Their Journey*, New York: Alfred A. Knopf, 1995, pp.151-152.

Field research conducted by the *ERRC* in Romania in 1996 revealed that although instances of mob violence had for the most part subsided, major episodes of serious anti-Romani violence continued to be reported, now with the police predominantly as perpetrators. The *ERRC* concluded, "The previous pattern of community violence has been replaced by a new pattern of police raids systematically conducted in Roma communities."[4]

Romania is a candidate country for membership to the European Union (EU) and much of Romanian foreign policy efforts have been devoted to securing admission to the EU. Surveys indicate a strong desire by Romanians for EU membership.[5] In candidate progress reports, the EU has been strongly critical of Romania's treatment of its Romani population. In its Regular Report on Romania's Progress towards Accession of November 8, 2000, for example, the European Commission stated that, "Roma remain subject to widespread discrimination throughout Romanian society. However, the government's commitment to addressing this situation remains low and there has been little substantial progress in this area since the last regular report." In its conclusion, the Commission further noted that "[t]he lack of progress with regard to tackling discrimination against the Roma is a subject which has been raised in previous regular reports but which has still not been adequately addressed."[6]

Such assessments stand in marked contrast with, for example, then-Romanian Minister of Justice Valeriu Stoica's statement in 1999 that, "[t]here are no serious human rights infringements in Rumania [...]. As for the Gypsy minority, the issue does not deal with discrimination on ethnic criteria, but with the necessity to integrate the minority socially, which assumes a special economic effort."[7] Occasionally, government officials have revolted against the strategy of downplaying the force of racism in Romanian society: Mr Péter Eckstein Kovács, then-Head of the Department for National Minorities of the Romanian government, stated at the European Conference against Racism, held in Strasbourg in October 2000: "Roma are the

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[4] European Roma Rights Center, *Sudden Rage at Dawn: Violence against Roma in Romania, Op. cit.*, p.9.

[5] See for example, Lang, Stefanie, *Greener with Accession? Comparative Report on Public Perceptions of the EU Accession Process and the Environment, in Hungary, FYR Macedonia and Romania,* Szentendre, Hungary: Regional Environmental Center, April 2000, pp.22-24.

[6] European Commission, *Romania: Regular Report from the Commission on the Progress towards Accession,* November 8, 2000, available on the Internet at: **http://europa.eu.int/comm/enlargement/dwn/report_11_00/pdf/en/ro_en.pdf**.

[7] Government of Romania, National Press Agency – Rompress, "Romanian Justice Minister: No Human Rights Infringements", November 19, 1999.

national minority most exposed to discrimination. [...] Despite our efforts, we have established the existence of certain visible manifestations of exclusion of Roma from various segments of social life."[8] Unfortunately such explicit acknowledgement of discrimination against Roma has been isolated and, to date, has not resulted in any tangible improvement in the situation of Roma in Romania. Intensive field missions conducted in May 2000 and January 2001, as well as regular reporting by *ERRC* local monitors in Romania, reveal that:

> (i) When Roma rights violations occur, non-prosecution of perpetrators is the norm. In an effort to see justice served, the *ERRC* has filed a number of complaints – six in total to date – with the European Court of Human Rights in Strasbourg, as remedies provided by domestic courts have been inadequate, where they have been provided at all. Cases are frequently denied justice for the following reasons: authorities do not open criminal investigations when Roma fall victim to human rights abuse; police conduct inadequate and purely formal investigations lacking even rudimentary substance; prosecutors intervene to cancel investigations or bring non-indictment decisions; authorities retaliate against Roma who file complaints by pressing charges against them. Where police officers are alleged to have perpetrated abuse, the likelihood that Romani victims can secure justice declines toward zero.
>
> (ii) As a result of a climate of impunity, violent human rights violations against Roma continue to be reported with worrying frequency and intensity.
>
> (iii) Little effective work has been undertaken to date by Romanian authorities on issues such as abuse of political rights of Roma in Romania, child homelessness and institutionalisation, discrimination in the fields of housing, medical care, employment, and access to goods and services, exclusion of Romani children from schools and racial segregation of Romani children in schools. Here too, anti-Romani actions occur in a medium where no force sanctions; perpetrators are effectively immune to punishment of any kind.

The present report aims at bringing up to date the *ERRC*'s 1996 Country Report *Sudden Rage at Dawn: Violence against Roma in Romania*, as well as at documenting the many violations and discriminatory obstacles hindering Roma in Romania from living with dignity.

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[8] Speech given, and distributed, at the European Conference against Racism, Strasbourg, October 12, 2000.

The report's central contention is that, as a result of the inadequacy of the Romanian government's efforts to bring perpetrators of anti-Romani crimes to justice, as well as to stamp out discrimination against Roma, a climate of impunity surrounding anti-Romani actions has taken deep root in Romania.

This report is structured as follows: the chapter following this introduction offers a brief history of Roma rights in Romania. The third chapter details ways in which Roma are denied justice when they complain of human rights abuse. Chapter 4 addresses the culture of impunity to which such widespread failures of justice have given rise and reports on recent cases of violence against Roma in Romania. Chapters 5 and 6 examine abuses of political rights of Roma in Romania and child homelessness and institutionalisation, respectively. Chapter 7 presents discrimination issues, focusing in particular on discrimination in access to housing, medical care, employment and access to goods and services. Chapter 8 explores the theme of education, notably the problem of school segregation. Chapter 9 comments on the recently adopted government programme on Roma. The report concludes with a series of recommendations to the Romanian government aimed at improving its human rights record with respect to Roma.

2. ROMA IN ROMANIA: SLAVERY, REJECTION, PERSECUTION

Romania has a special place in the history of Roma. On the one hand, nearly every country where Roma live today have Romani communities with a Romanian past. In some countries such groups comprise up to 20% of the local Romani population.[9] On the other hand, anti-Romani prejudice has been an ever-present feature of Romanian history. Since their first appearance on Romanian soil, Roma in Romania have been subjected to policies of suppression and have been brutalised and humiliated by the majority population. Centuries of enslavement of the Roma on the territory of today's Romania were followed by persecution and deportations by the pro-Nazi Romanian government of Ion Antonescu during World War II, and still later by forced settlement and the confiscation of the possessions of Roma during communist rule. In the aftermath of the overthrow of the communist regime in 1989, racial hatred burst out in a wave of mob violence and police abuse against Roma. Violence and discrimination remain an everyday reality for the Roma of Romania today.

There is a broad consensus among scholars of Romani history that Roma originate in India, having left no later than the 10th century AD.[10] The exact arrival of Roma on the territory of Romania is impossible to determine accurately. The first records of the enslavement of the Romani people in the provinces of Wallachia and Moldavia date from the mid-fourteenth century and slavery was systematic from the fifteenth century onwards.[11] According to the legal system of the time, Roma were born slaves; they were bought and sold by their owners. Legal union between free persons and slaves, including marriage, was forbidden.[12] Romani slaves were subjected to mass executions as well as to dire forms of punishment such as impaling on a stake.[13] Notwithstanding recent scholarship showing a more nuanced view of slavery in Romania, based on evidence of a more lenient treatment of some groups of Romani slaves,[14] fundamentally dehumanising bondage remained a defining feature of Romani life in Wallachia and Moldavia until the second half of the nineteenth century.

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[9] "Vlach Roma" is the term commonly applied to Roma speaking "Vlach" dialects and often identifiable by their practice of "Vlach" trades, crafts or predominantly "Vlach" institutions, such as, among some "Vlach" groups, the "kris", a tribunal. "Vlach" signifies that the bearer lived in pre-modern Romania, and at some point during the last two hundred years, his or her forebears left. This is known because of oral histories and the number of Romanian loan words in the "Vlach" dialects around the world. Some scholars hold that the autochthonous identifier of "Vlach Roma" is as the people of the four "nacije" (nations): the Churari, Lovara, Kalderash and Machvaja (See Acton, Thomas, Susan Caffrey and Gary Mundy, "Theorizing Gypsy Law" in *The American Journal of Comparative Law*, Volume XLV, Spring 1997, Number 2, pp.237-250), while others contest that view (Marushiakova, Elena and Vesselin Popov, *The Gypsies in the Ottoman Empire*, Hatfield: University of Hertfordshire Press, 2001, pp.86-88). Additionally, in some countries, "Vlach Roma" are not the only Romani group with a Romanian past. To take one example, in Hungary, the group called "Beash", comprises more than 10% of Hungary's Romani population. Beash Gypsies do not speak a "Vlach" dialect, but rather, in addition to Hungarian, an archaic form of Romanian. Groups of Romanian-speaking Roma/Gypsies can be found, under various names, throughout southeastern Europe. Hungary also has a significant "Vlach" Romani group, who are primarily from the Lovara group.

[10] See especially Fraser, Sir Angus, *The Gypsies*, Oxford: Blackwell, 1992.

By the mid-nineteenth century, revolutionary fervour throughout Europe led to an abolitionist surge in the Romanian provinces. Emancipation was not, however, finally achieved until 1864.[15] Some argue that slavery was not abolished simply due to the efforts of Romanian enlighteners but rather because it had become economically unviable.[16] Emancipation in any case did not herald a better life for Roma in Romania. Many Roma fled Romania in fear of re-enslavement.[17] These groups created the Vlach Romani diaspora

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[11] Hancock, Ian, *The Pariah Syndrome*, Ann Arbor, Michigan: Karoma Publishers, 1987, p. 16; Marushiakova and Popov, *Op. cit.*, pp.84-85. See also Crowe, David, "The Gypsy Historical Experience in Romania", in Crowe David & Kolsti, John (eds.), *The Gypsies of Eastern Europe*, Arnok, N.Y.: M.E. Sharp Inc., 1991, pp.61-62. Today's Romania comprises the historic provinces of Moldova, Wallachia and Transylvania, as well as part of the region called Banat.

[12] The Wallachian Penal Code of 1818 and the Moldavian Penal Code of 1833 are quoted in Hancock, *Op. cit.*, pp.28-29. On slavery of Roma in Romania, see Crowe, *Op. cit.*, pp.61-66; Gheorghe, Nicolae, "Origin of Roma's Slavery in the Rumanian principalities", *Roma*, 7 (1983), No. 1, pp.12-27.

[13] See Marushiakova and Popov, *Op. cit.*, pp.84-88.

[14] Recent historical research into the slavery of Roma in the Romanian principalities has revealed that some Romani slaves had privileges unavailable to other people. For example, some groups were allowed to lead a nomadic way of life and practice their traditional skills (Marushiakova, Elena and Popov, Vesselin, *Op. cit.*, pp.84-88).

[15] See Crowe, *Op. cit.*, p. 63.

[16] *European Roma Rights Center* communication with Professor of Romani Studies Dr Thomas Acton, January 25, 2001; as well as Panaitescu, P.N., "Gypsies in Wallachia and Moldavia", *Journal of the Gypsy Lore Society*, III series Vol.XX, 1941.

[17] See Georgescu, Vlad, *The Romanians: A History*, Ohio University Press, 1991, pp.140-147; see also Hancock, *Op. cit.*, pp.30-36; Crowe, *Op. cit.*, p. 64.

– today found in countries as disparate as Brazil, Russia, Hungary and the United States. The arrival of "Vlach" groups often initially excited non-Roma with their colourful attire, and aroused fears among the Roma of countries of arrival of new anti-Romani sentiments and actions among the wider society. Divisions between Vlach and non-Vlach Roma remain today. In Romania, severe impoverishment forced many Roma to offer themselves for resale to their previous owners, and all Roma remained outsiders in Romanian society, regarded as an inferior "foreign" group.[18]

The pro-Nazi and viciously anti-Semitic and anti-Romani government of Ion Antonescu, 1940-1944, engaged in genocidal persecution of Roma. Antonescu considered Roma no better than "mice, rats and crows".[19] In the period 1941-1943, the authorities deported possibly over 90,000[20] Roma to the province of Transnistria,[21] a dumping ground for Romania's undesirables during the racist projects of World War II. More than a third of the Roma sent there perished from exposure, malnutrition and disease.[22]

Following the end of World War II, Romanian communist governments engaged in a consistent policy of forced assimilation with respect to Roma. One of the first programmes implemented by the communist government upon gaining control in 1946 was to settle forcibly those members of the Romani community who remained nomadic. In a move partly prompted by the belief that the traditional Romani lifestyle was primitive, and partly as a practical measure to ensure easier monitoring for the secret police, horses and carts were confiscated. In the early 1950s, the Romanian Ministry of the Interior began to disperse

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[18] See Achim, Viorel, *Ţigani în istoria României*, Editura Enciclopedică, Bucureşti, 1998, pp.170-192.

[19] See Kenrick, Donald and Grattan Puxon, *The Destiny of Europe's Gypsies*, Great Britain: Sussex University Press, 1972.

[20] Estimates of numbers deported vary widely from 25,000 (Crowe, *Op. cit.*, p.70) to 90, 000 (Fraser, *Op. cit.*, 1995, p.268). However, the Romanian archives are still being examined and, as Fraser's research is the most recent, it is his figure which has been taken. The discrepancies in the figures would however suggest caution in drawing definite conclusions in this area.

[21] Transnistria was a province formed by the occupying German and Romanian armies, part of present-day Ukraine and Moldova.

[22] Fraser, *Op. cit.*, pp.268-9. On the Romani Holocaust in Romania see also Mihok, Brigitte, "Transnistrien und die Deportation der Roma (1942-1944)", in *Zwischenwelt: Literatur, Widerstand, Exil,* 17.Jg., Nr. 3, November 2000, pp.15-18.

Roma from compact communities and forcefully settle them on the outskirts of ethnically Romanian villages, where they were met with hostility from villagers.[23]

Formal equality was granted to all citizens of Romania. Nevertheless, part of the Romani population of Romania remained poorer than most non-Roma and extreme poverty among Roma became a visible and acute problem especially in the 1970s, several years into the Ceauşescu regime. Communist ideology in Romania fostered both nationalism and loyalty to the country and its progress.[24] Implicit (and occasionally explicit) in Romanian communism was a hostility toward (non-Romanian) ethnicity or nationality.[25] One element driving communist policy with respect to Roma was the belief that they were primitive and backward, and largely responsible for impeding "the modernizing and communizing" of Romania.[26] Additionally, racist policies continued periodically to be drafted and implemented. For example, in 1977, the Central Committee of the Communist Party implemented a policy confiscating gold from Roma.[27] Roma have never been compensated for harms caused by this racist policy.

Following the bloody coup against the Ceauşescu regime in December 1989, anti-Romani sentiment broke out in a wave of collective violence against Roma in the early 1990s. In the period 1990-1993, Romani communities throughout Romania were attacked by non-Romani neighbours in an outbreak of pogroms. Homes were burnt, possessions destroyed, and whole families terrorised into fleeing. Some of the victims have not, even close to a decade later, been able to return to their homes. Anti-Romani sentiment was so prevalent that when Ceauşescu successor Ion Iliescu summoned miners to Bucharest in June 1990 to quell student unrest in the capital, the miners reportedly also set upon Romani quarters in Bucharest, assaulting Roma, raping Romani women, and destroying dwellings and property.[28] Throughout Romania in the period 1990-1993, at least eight Roma were killed during instances of mob violence, and many more suffered serious injury.

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[23] Human Rights Watch/A Helsinki Watch Report, 1991, *Op. cit.*, p.16.

[24] See especially Verdery, Katherine, *National Ideology Under Socialism: Identity and Cultural Politics in Ceauşescu's Romania,* Berkeley: University of California Press, 1991.

[25] As expressed by Ceauşescu at the 11 Congress in 1974, "In the foreseeable future there will no longer be nationalities in Romania but only one socialist nation." (See Georgescu, Vlad, ed., *Romania 40 Years (1944-1984)*, The Center for Strategic and International Studies, Georgetown University, Washington D.C., 1988, p.88).

[26] See Beck, Sam, "The Romanian Gypsy Problem", Papers from the 4th and 5th Annual Meetings, *Gypsy Lore Society*, North American Chapter, 1985, pp.102-103.

[27] Remmel, Franz, *Die Roma Rumäniens: Volk ohne Hinterland,* Wien: Picus Verlag, 1993, p.74. According to then-head of the Romanian government's National Office for Roma, in the run-up to the 1996 election, President Ion Iliescu gave back some of the confiscated gold in order to buy Romani votes (*European Roma Rights Center* interview with Mr Dan Oprescu, May 10, 2000, Bucharest).

In recent years, anti-Romani sentiment has remained high, and even high-ranking government officials have made explicitly anti-Romani statements. For example, in March 2000, upon returning from a meeting of the Romania European Union Accession Council, then-Foreign Minister Petre Roman reportedly stated that the government had an obligation "to protect [the] 23 million Romanians against the few thousand Gypsies", who are preventing the country from getting off the EU visa blacklist.[29] In his statement, Foreign Minister Roman was evidently alluding to Romanian' Roma who had sought asylum in Western Europe from 1998 onwards and who had provoked alarm at the prospect of a "wave of migration" into Western European societies, and sparked an outpouring of anti-Romani prejudice in the international media. Publicity surrounding the Romanian Roma, who were branded as criminals, liars, and spongers in inflammatory articles by the press, was unflattering for the country's image.[30] In 1995, in response to a similar "threat" to Romania's international image by Romani migrants to Western Europe, Romania's Foreign Ministry had attempted to dissociate Romania and the Romanian people from Roma. The Ministry decreed that the Romanian Roma should be called "ţigani" and not "Roma" as the latter name "was likely to be confused with the Romanians."[31]

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[28] See Erich, Renate, *Am Rande der Stadt. Roma in Rumänien*, Bayerischer Rundfunk-Fernsehen, 1991.

[29] *Radio Free Europe/Radio Liberty Newsline*, March 23, 2000.

[30] See, for example, *Daily Mail*, March 5, 2000; *Sun*, March 14, 2000, *Evening Standard*, March 15, 2000. "Roma migration" is presently an object of stigma in Western Europe, as old stereotypes have been, in recent years, dramatically reinvigorated. For example, in December 2000, the International Centre for Migration Policy Development, a think-tank based in Vienna, held, with European Union funding, an "EU Odysseus Conference on Current Irregular Roma Migration" in Bratislava. By contrast, Dan Oprescu, former Head of the Romanian government's National Office on Roma told the *ERRC*: "We have always said, and sociological studies have shown, that there are not so many Romanian Roma outside the country. We are facing general movement westward. And inside this movement of Romanian citizens, there is of course a certain Roma element. German and French studies have shown that this Roma element is not larger than five percent of the total movement. So we are not concerned about the numbers, about realities, we are concerned about the perceptions. It is obvious that ethnic Hungarian [from Romania] or Romanian citizens in Paris or in London will practically not be seen, but if we see in London a Romani woman dressed traditionally, possibly with one or two children, possibly begging, it is obvious that it will make a good article in the British press. It is obvious that the visibility is much higher. There is now a movement of Roma and non-Roma." (*European Roma Rights Center* interview with Mr Dan Oprescu, May 10, 2000, Bucharest).

Distrust and dislike of Roma pervade all layers of state and society in Romania. A recent survey conducted by the *Center for the Research of Interethnic Relations* in Cluj-Napoca suggests that 38.8% of the Romanian respondents and 40.7% of ethnic Hungarian respondents, if given the choice, would not allow Roma to live in Romania.[32] Moreover, a poll published by the news agency *Agence France-Presse* suggests that three out of four Romanians fear Roma and would not tolerate Roma as neighbours.[33] One recent study revealed that 84% of Romanians expressed aversion toward Roma.[34] Many Romanians feel their country is being "Gypsy-fied" as salaries for work requiring a higher degree of education remain very low while "şmecheri", a slang word meaning persons who profit from deception or cunning or by taking in others (roughly "hustlers" in English) and closely associated with popular stereotypes about Roma – purportedly get rich.

Romanians went to the polls on November 26, 2000, and provided one of the most explicit endorsements for a racist party or politician in post-Communist Central and Eastern Europe. Approximately 28% of voters chose the outspoken extreme nationalist Corneliu Vadim Tudor for president and his Greater Romania Party *(Partidul România Mare – PRM)* received 21% of votes cast for the Romanian Senate and 19.4% of votes for the Chamber of Deputies in parliamentary elections held the same day. Mr Tudor is known for his anti-Romani, anti-Semitic, and anti-Hungarian statements. On August 16, 1998, Mr Tudor, at that point a senator in the Romanian parliament, reportedly stated that his programme for running the country included "isolating the Roma criminals in special colonies" in order to "stop the transformation of Romania into a Gypsy camp."[35] Mr Tudor has promised to destroy the "Gypsy mafia" he claims controls much of Romania, and international media reported, following the election, that many Romanians interviewed had voted for him precisely because of his racist message. One Tudor supporter told an *Associated Press* reporter just after the first round of elections in November 2000: "He has a direct and incendiary message. He said he'll exterminate the Gypsy mafia, I don't know whether he will, but he will try."[36] Support for Mr Tudor in the first round of elections in November 2000 was exceeded only by that of former President Ion Iliescu, who ruled the country in the period 1990-1996. Mr Iliescu received 36.3% of the popular vote, and his Party of Social Democracy in Romania *(Partidul Democrat Social din România – PDSR)* received 37% of votes for the Romanian Senate and 36.6% of votes for the Chamber of Deputies.

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[31] See Memorandum No H(03)/169 of the Romanian Ministry of Foreign Affairs from January 31, 1995. This memorandum provoked protest by Romanian Roma as the word ***ţigan*** bears intensely negative associations in Romanian society. After the change of government in 1996, the memorandum was reportedly not enforced. However, it was renounced only in September 1999, when the head of the governmental Office for National Minorities, Mr Péter Eckstein Kovács, made a recommendation to the government to use the term ***Rom/ţigan*** in official documents. A memorandum of the Romanian Foreign Ministry from February 29, 2000, stated that the term "Rom" could be used alternately to other names. The possibility of confusion between Roma and Romanians makes many Romanians nervous and defensive (see, for example, Rutherford, Erik, "Tony Gatlif's Film Gadjo Dilo Furthers the Romani Cause", in *Roma Rights* 3/1999, pp.23-30, on the Internet at: **http://errc.org/rr_nr3_1999/notebook.shtml**).

[32] See Center for Research of Interethnic Relations and the Ethnocultural Diversity Center, *Ethnobarometer: May-June 2000*, Cluj-Napoca, 2000.

[33] *Agence France-Presse*, Bucharest, November 17, 2000.

[34] See Kanev, Krassimir, "Changing Attitudes Towards Ethnic Minorities in Bulgaria and the Balkans 1992-1997", in Thanasis Sfikas and Christopher Williams (eds.), *Ethnicity and Nationalism in East Central Europe and the Balkans*, Aldershot: Ashgate, 1999.

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[35] On Mr Tudor, the PRM, and other parties inciting racial and ethnic hatred, see especially Shafir, Michael, "Radical Politics in East Central Europe, Part VIII: Radical Continuity in Romania: The Greater Romania Party", Vol. 2, No. 17 and Vol. 2, No. 19, *Eastern European Perspectives, Radio Free Europe/Radio Liberty,* August 16 and September 13, 2000; Shafir, Michael, "Radical Politics in East Central Europe, Part VIII: Radical Continuity in Romania: The Party of Romanian National Unity", Vol. 2, No. 19 and Vol. 2, No. 20, *Eastern European Perspectives, Radio Free Europe/Radio Liberty,* October 11 and October 25, 2000; Shafir, Michael, "Radical Politics in East Central Europe, Part IX: Romanian Radical Return", Vol 3., No. 1 and Vol. 3, No. 2, *Eastern European Perspectives, Radio Free Europe/Radio Liberty,* January 10 and January 24, 2001, on the Internet at: **http://www.rferl.org/eepreport/archives.html.** Former head of the Party of Romanian National Unity and current member of the PRM Mr Gheorghe Funar has been mayor of the city of Cluj-Napoca throughout the 1990s and has provoked what many have described as an "ethnic cold war" in the city. Although racist politicians are outspoken in Romania, and a number of explicitly racist periodicals exist, only one person – journalist Mihai Bogdan Antonescu – has ever been brought to justice for incitement in Romania. Mr Antonescu wrote in September 1998 in the weekly *Atac la persoana,* in a regular column called "Swastika", that too much "potential soap from Tel Aviv" (i.e., Jews) was walking around on the streets of Bucharest and that owing to its present economic situation, Romania did not have "sufficient barbed wire and Zyklon-B gas" to resolve the problem. On hate speech in post-1989 Romania, see Mihok, Brigitte, "Fremdenstereotypen in der rumänischen Öffentlichkeit (1990-1999). Versprachlichte Bildkonstruktionen von den Roma", in Anghelescu, Mircea and Larisa Schippel, eds., *Im Dialog: Rumänische Kultur und Literatur,* Leipziger Universitätsverlag GmbH, 2000, pp.79-86.

[36] See Mutler, Alison, "Romania's young vote for extremist Senator in presidential race", *Associated Press Newswires,* November 27, 2000.

Second round presidential elections between Mr Tudor and Mr Iliescu held December 10 produced victory by a wide margin for Mr Iliescu. He received 74% of the popular vote, to Mr Tudor's 26%. This result was only secured, however, following significant engagement by those political parties excluded from the run-off, Romanian civil society, and the media explicitly endorsing Mr Iliescu in order to avoid the international isolation which threatened to follow a Tudor victory.

3. DENIAL OF JUSTICE

On the evening of September 20, 1993, a mob of ethnic Romanians and Hungarians attacked the Romani community in the village of Hădăreni, Mureş County, in retaliation for the murder of an ethnic Romanian villager by a Romani man earlier that day. As a result of the attack, three Romani men – Mr Rupa Lucian Lăcătuş, Mr Pardalian Lăcătuş, and Mr Mircea Zoltan – were killed, fourteen houses belonging to Roma were burned and another five demolished, and the Romani inhabitants were chased out of the village.[37] According to official sources, Mr Pardalian Lăcătuş died as a result of 89 distinct wounds to his body, while Mr Rupa Lucian Lăcătuş died due to shock caused by surface wounds covering "almost 70% of his body."[38] Mr Zoltan was burnt to death in his home, which he did not dare to leave because of the mob outside.[39] Evidence suggests that police officers may have directly participated in the pogrom.[40] Witnesses later testified in court that members of the local police urged the angry mob to set fire to Romani houses and promised the villagers involved that they would help to cover up the entire incident.[41] Following the deaths of the three Roma, police did nothing to prevent villagers from setting out on a campaign of destruction of Romani houses and property in Hădăreni.[42] However, for

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[37] For detailed description of the Hădăreni pogrom and its legal aftermath, see Amnesty International, May 1995, *Op. cit.*, pp.28-31; European Roma Rights Center, *Sudden Rage at Dawn: Violence against Roma in Romania, Op. cit.*, pp.12-19; Haller, István, "Lynching is not a Crime: Mob Violence against Roma in Post-Ceauşescu Romania", *Roma Rights,* Spring 1998, at **http://errc.org/rr_spr1998/index.shtml**; Human Rights Watch/Helsinki, November 1994, *Op. cit.*, pp.35-42; and Romanian Helsinki Committee, "Report on the APADOR-CH Fact-finding Mission to Hădăreni and Târgu Mureş", October 5-7, 1993.

[38] See Prosecutor's indictment, The Public Ministry, Court of Appeal, Târgu Mureş Prosecutor's Office, Case Nr.1/P/1993, August 12, 1997, reprinted in *Roma Rights,* Spring 1998, pp.43-53, and at: **http://errc.org/rr_spr1998/legalde1.shtml.**

[39] *Ibid.* International human rights law imposes on states a positive obligation to provide protection to all under their jurisdiction against ill-treatment by private persons. The United Nations Human Rights Committee, in its General Comment 20 from 1992, noted that the scope of protection to be undertaken by state parties to the International Covenant on Civil and Political Rights (ICCPR) extends to cover torture, or other cruel, inhuman or degrading treatment or punishment committed by people acting in their "private capacity". The General Comment reads, in part, "It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against acts prohibited by Article 7 [of the ICCPR] (torture, inhuman or degrading treatment), whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity." See Human Rights Committee, General Comment 20, Article 7, Forty-fourth Session, 1992, (para. 2). Romania ratified the ICCPR on December 9, 1974. The European Court of Human Rights has similarly held that Article 3 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) (prohibition of torture), read in conjunction with Article 1, requires states not merely to refrain from torture or inhuman or degrading treatment or punishment, but also to secure this right by providing protection against ill-

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treatment by private persons. In *Costello-Roberts v. United Kingdom* the Court held "that the responsibility of a State is engaged if a violation of one of the rights and freedoms defined in the Convention is the result of non-observance by the State of its obligation under Article 1 to secure those rights and freedoms in its domestic law to everyone within its jurisdiction," (*Costello-Roberts v. United Kingdom*, 19 EHRR 112 (1993), para. 26; see also, mutatis mutandis, *Young, James and Webster v. the United Kingdom*, Judgement of August 13, 1981, Series A 44, p.20, para. 49 and *A v. United Kingdom*, Judgement of 23 September 1998, Reports 1998-VI, para. 22). Moreover, Article 2 of the ECHR, the right to life, also imposes positive obligations upon the state to protect those under its jurisdiction from a known risk to life (*Mahmut Kaya v. Turkey* and *Kiliç v. Turkey*, Judgements of March 28, 2000). Although Romania ratified the ECHR on June 20, 1994 – after the 1993 Hădăreni pogrom – prior to that date, Romanian authorities had engaged in significant efforts to prove their country's willingness to abide by the provisions of the ECHR. It is one of the enduring ironies of Romania's post-1989 history that, in recognition of those efforts, Romania was invited to join the Council of Europe on September 20, 1993 – the day the Hădăreni pogrom took place.

[40] On November 15, 1994, a statement by the Military Prosecutor of Târgu Mureş asserted that there was evidence to suggest that two police officers "not only incited the villagers to commit acts of violence on the evening of September 20, 1993, but were also directly involved in setting certain Romani houses on fire." (see letter No 139/P/1994 of the Târgu Mureş Military Prosecutor's Office).

[41] Mr Pavel Bucur testified on November 13, 1997, before the Mureş District Court: "The policeman with dark hair took out a gun and said: 'I do not help the Gypsies, come and set fire to them.' [...] Two police cars were driving around Hădăreni, announcing through their loud-speakers: 'Only the houses of the Gypsies should be set on fire, the houses of the Romanian people should not be burned!'" See Mureş Court of Law Docket No 5153/1997. Mr Nicolae Gáll testified on November 13, 1997, before the Mureş District Court that Colonel Constantin Palade stated that the case would be "covered up and they would find a scapegoat, a fool and thereby the dossier would be closed." See Mureş Court of Law Docket No 5153/1997.

[42] Mr Florin Raţiu testified on April 14, 1998 before the Mureş District Court: "I heard [the policeman] Moga telling the people to do what they wanted with those [Roma] in the house. [...] Police worker Şuşcă, too, came to the site of the incident, but he really did nothing, that is he came to [...] the courtyard, saw what was happening, and left." See Mureş Court of Law Docket No 5153/1997. Mr Cristian Liviu Dimbean testified on April 14, 1998 before the Mureş District Court: "There were no policemen, firefighters or gendarmes preventing us from setting the Gypsy houses on fire." See Mureş Court of Law Docket No 5153/1997.

years after the pogrom, no one was brought to justice either for the three killings or for the destruction of the houses and property.[43]

On October 31, 1994, due to the ample evidence suggesting police involvement in the incident, the case was sent by the Târgu Mureş police to the Târgu Mureş Military Prosecutor's Office and therefore entered the competence of the military justice system.[44] On November 15, 1994, a statement issued by the Târgu Mureş Military Prosecutor's Office named the police officers concerned and a criminal investigation began against Chief of Police Ioan Moga and Officer Alexandru Şuşcă for directly participating in the crimes committed on the night of September 20, 1993.

On January 10, 1995, the Târgu Mureş Military Prosecutor referred the case file to the Bucharest Territorial Prosecutor's Office. This was carried out pursuant to Romanian law, stipulating that in cases in which the Chief of Police is implicated in a crime, only higher prosecuting authorities are authorised to undertake proceedings. At this time, the Military Prosecutor expanded the indictment to include charges against a third police officer, Colonel Constantin Palade. The Bucharest Territorial Prosecutor's Office then delegated competence to Lieutenant Colonel Sandu Marin of the Târgu Mureş Military Prosecutor's Office to conduct an investigation into the circumstances surrounding the incident on behalf of the Bucharest Territorial Prosecutor's Office.

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[43] The failure of Romanian authorities to provide redress to victims of human rights violations breaches Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which stipulates that "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority."

[44] The Romanian police force has retained the military status it inherited from the communist system and is subject only to the jurisdiction of military courts. The status of the police as a military institution seriously diminishes the chances for justice when police officers are alleged perpetrators of crimes. (See Macovei, Monica, "Police Impunity in Romania", *Policing and Society*, Vol 10, p.119: "At the root of police impunity is the military courts jurisdiction over police misconduct cases. The system of military justice precludes the independence of the courts, threatens the impartiality of prosecutors and judges, shields prosecutors and judges from scrutiny, provides for shoddy and corrupt investigations, and undermines the principle of equality before the law.") Police abuse of Roma is in effect sanctioned by the lack of an adequate mechanism for investigating crimes by officers and by the absence of judicial control over the acts of the military prosecutors, who are charged with processing allegations of police misconduct. According to Article 278 of the Romanian Penal Procedure Code, prosecutors' decisions can be appealed before the superior prosecutor and eventually before the General Prosecutor. The General Prosecutor's decisions are final and are not subject to judicial review. Human rights organisations, including Amnesty International, have urged the Romanian government to "amend the Penal Procedure Code to ensure that police officers and prison guards are subject to civilian courts of justice and not to military tribunals..." See, for example, *Amnesty International*, "Romania: A Summary of Human Rights Concerns", March 1998, AI INDEX: EUR 39/06/98.

On August 22, 1995, Prosecutor Lieutenant Colonel Sandu Marin issued a non-indictment decision stating that the evidence in the case did not confirm the participation of Chief of Police Ioan Moga, Colonel Constantin Palade or Officer Alexandru Şuşcă in the crimes committed during the pogrom. Prosecutor Marin stated that the Military Prosecutor's Office could not consider the "lack of initiative and the incapacity of the [two] policemen charged to influence the behaviour of the furious villagers as a form of participation."[45]

In September 1995, the Chief of the Bucharest Territorial Prosecutor's Office upheld the non-indictment decision and all charges against the police officers were dropped. At the initiative of the Braşov-based non-governmental organisation *Lawyer's Association for the Defence of Human Rights (APADO),* the injured parties filed a complaint against the non-indictment ordinance issued by the Bucharest Territorial Military Prosecutor's Office. However, their complaint was rejected by the Military Prosecutor's Office of the Supreme Court of Justice on March 14, 2000.

In connection with the actions of the villagers themselves, it was not until August 12, 1997, nearly four years after the incident, that a Târgu Mureş prosecutor issued a criminal indictment act, bringing charges against eleven persons for participation in the violent attack, including charges for extremely aggravated murder, against five men: Mr Pavel Bucur, Mr Petru Bucur, Mr Vasile Dorel Bucur, Mr Nicolae Gáll, and Mr Severius Ioan Precup. Despite ample evidence against another four civilians, the latter were never charged with any crime. Additionally, one of the persons charged with destruction of property and outrage against morals and disturbance of the public order – Mr Simion Furdui – should have been, according to the court, charged with aggravated murder.[46]

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[45] See Military Prosecution Department pertaining to the Bucharest Military Court, Injunction, August 22, 1995, Docket No 46/P/1995, on file at the *ERRC.*

[46] In reference to persons not indicted, the decision of the Târgu Mureş court of July 17, 1998, stated that there is evidence that "defendant Simion Furdui is guilty of aggravated murder, and Ioan Achim, also known as 'Pedic', Sorin Vucu Achim, Samoila Bartuş and Nicolae Vescan, had a significant contribution in committing aggravated murder." See Mureş Court of Law, Docket No. 5153/1997. Criminal Sentence, Public Session of July 17, 1998.

On November 11, 1997, trial began in connection with the criminal proceedings as well as the civil case for damages. The civil and criminal trials were separated by decision of the Court during hearing on June 23, 1998, because of concerns that the complicated nature of the civil claims for damages would unnecessarily delay ruling in the criminal case.

The Târgu Mureş court reached a decision in the criminal case on July 17, 1998, pronouncing four men guilty of extremely aggravated murder.[47] Mr Petru Bucur, who had been indicted for extremely aggravated murder, was not convicted on that charge, but was convicted of destruction of property and outrage against morals and disturbance of the public order.[48] The remaining defendants – six in total – were convicted solely of destruction of property. All were given varying sentences of imprisonment.[49] All eleven men sentenced were also fined one million lei (approximately 40 euros at today's exchange rate).

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[47] Mr Pavel Bucur was convicted of extremely aggravated murder and sentenced to five years imprisonment for this offence, one-year imprisonment for the crime of destruction of property and six months imprisonment for the crime of outrage against morals and disturbance of the public order. He was also sentenced to the loss of certain civil rights for a period of four years. He was conditionally pardoned for the crimes of destruction of property and outrage against morals and disturbance of the public order and ordered to serve only the sentence for extremely aggravated murder.

Mr Vasile Dorel Bucur was convicted of extremely aggravated murder and sentenced to serve seven years imprisonment. He was also convicted of destruction of property and ordered to serve a three-year sentence. The latter sentence was partially pardoned and Mr Bucur was ordered to serve eighteen months of the term. He was also sentenced to one-year imprisonment for the crime of outrage to morals and disturbance of the public order, but the sentence was suspended and he did not have to serve the prison term. The effective sentences were partially joined and Mr Bucur was ordered to serve, in total, seven years and six months in prison. He was additionally sentenced to a loss of four years of certain civil rights. The court handed down an identical sentence to Mr Severius Ioan Precup.

Mr Nicolae Gáll was sentenced to three years for extremely aggravated murder, one year for destruction of property, six months for outrage against morals and disturbance of the public order. The latter sentence was suspended. He was ordered by the court to serve a total of three years imprisonment and to lose certain civil rights for a period of two years. (Mureş Court of Law, Docket No. 5153/1997. Criminal Sentence, Public Session of July 17, 1998).

[48] For the crime of destruction of property, the court sentenced Mr Petru Bucur to one year imprisonment, and he received a three year term for outrage against morals and disturbance of the public order. The sentence was entirely suspended in connection with his conviction for destruction of property, and reduced effectively in half on the latter charge. He was sentenced in total to one and a half years in prison, but due to the length of time he had served in pre-trial detention, he was ordered immediately released by the court. (Mureş Court of Law, Docket No. 5153/1997. Criminal Sentence, Public Session of July 17, 1998.)

[49] Mr Vasile Budean and Mr Simion Furdui were sentenced to five years of imprisonment for the crime of destruction of property. Half of the duration of these sentences was suspended. Each was additionally

In its decision, the Târgu Mureş court commented that due to the poor investigation, or indeed the total lack of any adequate inquiries, not all those implicated in the Hădăreni pogrom had been charged. The Court stated that, "we consider that, as long as persons who contributed to a higher degree to the committing of criminal actions were not sued and were not even investigated, although there was enough evidence to prove their guilt, the defendants who were sued should not be held responsible for all crimes committed, but only for the part for which they are liable."[50]

The decision of the first instance court, on July 17, 1998, was appealed by the Prosecutor's Office. On January 15, 1999, the Târgu Mureş Court of Appeal handed down a new verdict, partially upholding the lower court's ruling. The Court of Appeal however overturned the lower court's acquittal of Mr Petru Bucur on the charge of extremely aggravated murder and sentenced him to six years for that crime.[51] The court also altered a number of the sentences of imprisonment of the other defendants.[52]

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sentenced to a suspended sentence of one year for the crime of outrage to public morals and disturbance of the public order. Mr Nicolae Bucur, Mr Iuliu Bucur, Mr Vasile Bucur and Mr Olimpiu Vescan were sentenced to three years imprisonment for destruction of property. The court ordered that each man serve only half of the sentence effectively. Each also received a one-year suspended sentence for the crime of outrage against morals and disturbance of the public order. (Mureş Court of Law, Docket No. 5153/1997. Criminal Sentence, Public Session of July 17, 1998).

[50] *Ibid.*

[51] The Court also reversed Mr Petru Bucur's lower court acquittal for perjury and sentenced him to one year imprisonment on that charge. Mr Petru Bucur's sentence of three years for the crime of outrage against morals and disturbance of the public order was reduced to one year. However, the court ruled that Mr Bucur only had to serve six months in prison and suffer a three-year ban on certain civil rights. (Târgu Mureş Court of Appeal, Criminal Department, Docket No. 2055/1998, Public Session of January 15, 1999).

[52] Mr Pavel Bucur: the five year sentence for extremely aggravated murder was maintained, but his civil rights were derogated by the Appeal Court for only two years;

Mr Vasile Dorel Bucur and Mr Severius Ioan Precup: The seven year term of imprisonment and four year loss of certain civil rights for the crime of extremely aggravated murder was reduced to six years imprisonment and three years loss of certain civil rights. The sentences for destruction of property were reduced from three years to two years suspended.

Mr Nicolae Gáll: His punishment for the crime of extremely aggravated murder was increased to six years imprisonment and three years' loss of certain civil rights. Mr Gáll additionally was sentenced to pay a fine of 400,000 lei (approximately 15 euros at today's exchange rate).

The sentences of Mr Vasile Budean and Simion Furdui were reduced to two years for the crime of destruction of property.

Following the Appeal Court verdict, the defendants appealed the decision.[53] On November 22, 1999, the Supreme Court upheld the lower courts' convictions for destruction of property, but reduced the charges of extremely aggravated murder to a lesser charge of aggravated murder for three of the defendants who had been charged and convicted by the lower court of extremely aggravated murder – Mr Pavel Bucur, Mr Vasile Dorel Bucur and Mr Severius Ioan Precup. The defendants Mr Nicolae Gáll and Mr Petru Bucur were acquitted of all murder charges and Mr Petru Bucur was also acquitted of perjury. Mr Gáll was immediately released. The appeals by the remaining defendants were rejected by the Supreme Court.

Moreover, in a decree issued on June 7, 2000, the President of Romania issued individual pardons to Pavel Bucur and Severius Ioan Precup, two of the civilian defendants convicted for aggravated murder, setting both of them free. None of the convicted perpetrators are today serving prison sentences in connection with the Hădăreni pogrom.

On August 22, 1999, based on new evidence brought to light in the criminal trial, victims of the Hădăreni pogrom and their relatives filed a criminal complaint with the Military Prosecutor's Office of the Supreme Court of Justice against Officers Alexandru Şuşcă, Ioan Moga, Constantin Palade and Lieutenant Nicu Drăghici, in addition to other members of the police force. This criminal complaint cited the extensive testimony indicating police involvement in the Hădăreni pogrom, noting that, despite this evidence, no police officials had ever been indicted. The complaint also questioned the competence and objectivity of Prosecutor Sandu Marin, the lead investigating military magistrate from the Târgu Mureş Military Prosecutor's Office, who issued a non-indictment ordinance in August 1995, following the (military) criminal investigation of police officials. On March 14, 2000, upon consideration of the merits of the complaint, the Chief Military Prosecutor of the Military Office of the Supreme Court of Justice upheld the Bucharest Military Court's non-indictment decision, thereby rejecting the complaint filed against the officers.

Criminal proceedings related to Mr Vasile Bucur were halted as a result of the death of the defendant. The court reduced the sentences of Mr Iuliu Bucur, Mr Nicolae Bucur and Mr Olimpiu Vascan for destruction of property to two years' imprisonment and annulled the sentences related to the charge of outrage against morals and disturbance of the public order. (Târgu Mureş Court of Appeal, Criminal Department, Docket No. 2055/1998, Public Session of January 15, 1999).

[53] The Supreme Court of Justice Criminal Department, Docket No. 1334/1999, Public Hearing of November 22, 1999.

To date, no members of the police force present on the evening of September 20, 1993, have been formally indicted, despite considerable evidence existing to suggest that police officers were not only passive witnesses to the events at Hădăreni, but in fact played a role in instigating the actions that led to the killing of Rupa Lăcătuş, Pardalian Lăcătuş and Mircea Zoltan. On December 15, 2000, the *ERRC* filed an application with the European Court of Human Rights on behalf of members of the victims' families to seek the justice that Romanian courts had denied them.[54] The civil case for damages, the trial of which began on November 11, 1997, was still pending as this report went to press.

Authorities in Romania frequently fail to respond adequately to anti-Romani abuse, including extreme abuse, and do not thoroughly investigate incidents and prosecute perpetrators.[55] The subsections that follow examine five common manifestations of the general disinterest in punishing crimes against Roma in Romania: (i) cases in which there is a failure (or, indeed, refusal) by police to open an investigation; (ii) instances in which an investigation is formally opened, but is permitted to drag on indefinitely with no serious steps taken and no indictment brought; (iii) cases in which prosecutors close cases with decisions not to indict; (iv) instances in which police respond to complaints filed by Roma by bringing charges against them; (v) cases against police officers. In the latter, although cases may include events as serious as death in custody, prosecution and conviction of police officers are not among the consequences.

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[54] The *ERRC* application filed with the European Court of Human Rights on behalf of the victims of the Hădăreni pogrom asserts several violations of the European Convention on Human Rights. It claims that Romanian authorities have violated Article 2, directly due to the alleged actions of the police officers, and indirectly in failing to conduct an effective investigation capable of leading to the identification and punishment of all individuals responsible for the deaths of the three Romani men; Article 3, in failing to properly investigate the participation of all police officials implicated in the attacks on Roma homes and property, and furthermore, that the incident at issue, i.e. the death of the three Romani men and the community violence amount to "inhuman and/or degrading treatment"; Article 6(1), in depriving the applicants of their right to file a civil action for damages against the state with respect to the misconduct of the police officers concerned by failing to carry out an adequate criminal investigation, culminating in formal charges and a conviction of all individuals responsible; Article 8, in having failed to provide comprehensive redress for the destruction of the victims' homes and possessions, having violated their right to respect for private and family life; Article 1 of Protocol 1, in having denied the applicants comprehensive redress for the destruction of their homes as well as their possessions and thus, having violated their right to peaceful enjoyment of their possessions; Article 13 read in conjunction with Articles 3, 8, and Article 1 of Protocol 1, in denying applicants an effective and comprehensive remedy for ill-treatment and the destruction of their homes and possessions by failing to provide a comprehensive investigation capable of leading to a formal criminal indictment of police officers implicated in the pogrom; and Article 14 in conjunction with Articles 2, 3, 6(1), 8 and 13, as well as Article 1 of Protocol 1, since all aforementioned violations the applicants suffered as a result of the community violence incident at issue, including the inadequate investigation and the absence of adequate and comprehensive redress, were predominantly due to their Romani ethnicity, and therefore inconsistent with the requirement of non-discrimination set forth in Article 14. Complaints related to Articles 3, 6(1), 8 and 14 were communicated by the Court to the Romanian government on March 13, 2001.

[55] Such inaction is a clear breach of Article 1 of the ECHR, and Article 2(1) and Article 2(3) of the ICCPR, to ensure that the human rights of all within the state's jurisdiction are respected.

3.1. Failure to Investigate Human Rights Violations against Roma

When violent abuse of Roma occurs, police frequently fail to undertake action to investigate allegations. For example, on November 23, 1999, Mr Brăiţa Lăcătuş told the *ERRC* that his 12-year-old son, Florin Lăcătuş, had been beaten by a non-Romani man the day before. Mr Lăcătuş had gone to the police station in Hădăreni to complain about the incident. However, in the police station, an officer, who according to Mr Lăcătuş was under the influence of alcohol, allegedly told him: "I would not lose my time for Roma. Roma are always guilty."[56]

In an unrelated incident in autumn 1999, a group of seven Romanian workers reportedly beat a 45-year-old Romani man named Mr R.G., from Săcele, near Braşov in central Romania.[57] According to testimony given to the *ERRC,* Mr R.G. and his family had been gathering leftover potatoes in a field, when the men passed by and stole his horses and cart. He followed the men to a farm to demand their return, but the men attacked and beat him. Mr R.G. immediately went to the police in nearby Hărman, where a policeman dismissed his complaint and allegedly slapped him in the face, calling him a "Gypsy". The *ERRC* is unaware of any official investigation of the incident.

In another incident, a police officer reportedly ignored Mr Vilmos Paradica's complaint that he had been assaulted. Mr Paradica, a Romani man from Târgu Mureş, reported to the *ERRC* on September 9, 1999, that he had been beaten by non-Roma on September 6. The *ERRC* noted visible injuries on Mr Paradica's face and body. Mr Paradica subsequently obtained a medical certificate stating that the injuries he had sustained had required 7-8 days of medical treatment. Mr Paradica stated that after the incident he had gone to the police station in Târgu Mureş, where he was allegedly told by a police officer that the police could not take any action against the perpetrators.

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[56] *European Roma Rights Center* interview with Mr Brăiţa Lăcătuş, November 23, 1999, Târgu Mureş.

[57] In certain instances in this report the *ERRC* has withheld the names of victims or alleged perpetrators. The *ERRC* is prepared to disclose names if the interests of justice so require.

Prior to this incident, Mr Paradica and members of his family had reportedly been subjected to bureaucratic indifference and eventually to police abuse. In January 1998, members of the Téglás family, who are also members of Mr Paradica's extended family who lived in seven houses in Gheorghe Doja village, Mureş County, had to leave the village for fear of revenge after a conflict with another Romani family from the same village. While the family was away from the village unknown persons destroyed their houses. A police investigation allegedly failed to identify the perpetrators. In August 1998, the Téglás family went to Bucharest, where they met with Mr Dan Oprescu, then-Head of the National Office on Roma at the Department for Protection of National Minorities of the Romanian government. The Téglás family was reportedly promised assistance in finding accommodation in Mureş County. The Prefect of Mureş County and the local authorities, however, refused to accommodate the Téglás family, claiming that there were no unoccupied houses in the county. The Téglás family reportedly set up temporary dwellings in the forest on the outskirts of Gheorghe Doja village. On July 31, 1999, seven people from the Téglás family, Dragomir Téglás, Vilmos Paradica, Lajos Téglás, Gyorgy Téglás, Zoltán Téglás, Alexandru Harkó and Aurel Harkó, told representatives of the Târgu Mureş-based non-governmental organisation *Liga Pro Europa* that early in the morning on that day two police officers had set their shacks on fire, before taking them to the police station in Târgu Mureş. In the police station, officers allegedly beat the seven Roma and reportedly fined them 400,000 Romanian lei (approximately 15 euro) each, and threatened that if they returned to Gheorghe Doja village they would beat them again, but more severely the next time. A complaint filed in connection with the case by the victims with the assistance of *Liga Pro Europa* reportedly met with no action on the part of the police.

3.2. Protracted Investigation Devoid of Substance

In a number of cases, an investigation is formally opened, but never in fact takes place. In some instances, officers announce that the investigation will "end" on the date on which the statute of limitations runs out and the case is sent to the archive as unsolved. Frequently officers charged with investigating anti-Romani crimes fail to engage in key elements of investigation. The cases that follow detail instances in which investigation resulted in no indictment act and/or was so protracted that it amounted to an exoneration of the perpetrators.

For example, on June 6, 1991, following a fight between four Romani men and a non-Romani night guard in the town of Plăieşii de Sus, Harghita County, in central Romania, a crowd of predominantly ethnic Hungarian villagers retaliated by assaulting and beating Mr A.K. and Mr A.M – two Romani men who had no connection with the earlier incident. As a result of the injuries they sustained in the assault, both men later died – Mr A.K. several days after the attack and Mr A.M. around one year later.[58]

On June 8, 1991, a public notice appeared on the outskirts of the Romani settlement, informing the inhabitants that their houses would be burned down the following evening, a Sunday. Although the Roma informed both the police and the village municipality, nobody intervened. Rather, the Roma were "advised" by the authorities to leave their houses for their own safety. On the Sunday afternoon, the Roma fled their homes for a nearby stable and, as threatened, an organised group of non-Romani villagers then set all of the 28 Romani houses on fire. The houses and all of the personal possessions inside were completely destroyed. For approximately one year following the incident, the Romani families, including the very young and the very old, lived in nearby stables in subhuman conditions.[59]

One year after the pogrom, the Romani houses were rebuilt by the same ethnic Hungarian villagers who had destroyed them. However, none of the Roma ever received compensation for the loss of their personal and household possessions.

In the aftermath of the incident, the Harghita County Police Department allegedly started an investigation. In order to obtain access to the case file, attorney Silviu Jecu of the Lawyers' Association for the Defence of Human Rights *(APADO)*, the authorised representative of the victims, contacted the police and the mayor's office. In a subsequent unpublished *APADO* report from May 1996, Mr Jecu stated that both had categorically refused to allow him to examine the case file and that they had expressed the opinion that "Gypsies", as they put it, were to blame for what had happened, as they "steal for a living and are aggressive towards other people." The authorities told Mr Jecu that the investigation for the crime of destruction of property would be terminated on June 9, 1996, the date of expiration of the statute of limitations. In addition, the officials stated that the homicide investigation into the death of Mr A.K. and Mr A.M. would also be terminated on June 9, 1998. Mr Jecu was told that no further investigation was planned into the events. Finally, both the Mayor's office and the police officials said that given the large number of people involved in the incident, it was impossible to identify the perpetrators.[60]

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[58] European Court of Human Rights Application no. 57884/00, on file at the *ERRC*.

[59] See European Roma Rights Center, *Sudden Rage at Dawn: Violence against Roma in Romania, Op. cit.*, pp.12-15.

The unwillingness of authorities to conduct an adequate investigation has prevented any possibility of redress for the victims at any level of the domestic judicial system. In October 1998, the Prosecution Department of the Târgu Mureş Court of Appeal rejected the criminal complaint filed by Mr Jecu. Following appeal, this decision was confirmed on January 21, 1999, by the Prosecution Department of the Supreme Court, whose decision is final.

On March 12, 2000, on behalf of three of the victims, the *ERRC* filed an application with the European Court of Human Rights in Strasbourg, alleging that the Plăieşii de Sus incident involves breaches of a number of rights protected by the ECHR.[61] The case was pending before the Court as this report went to press.

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[60] European Court of Human Rights Application no. 57884/00, on file at the *ERRC*.

[61] The *European Roma Rights Center* application in the Plăieşii de Sus case alleges violations of the following Articles of the ECHR:

> Article 3 – Notwithstanding the existence of evidence to identify the perpetrators, the authorities have failed to carry out a prompt, impartial and effective investigation and to provide redress to the applicants for the community violence to which they had been subjected.
>
> Article 6(1) – Under Romanian law and practice, the authorities' failure to carry out an adequate criminal investigation culminating in formal charges and a conviction has deprived the applicants of their right to a fair and public hearing within a reasonable period of time by an independent and impartial tribunal in the determination of their civil rights to establish liability and recover damages for the injury they suffered.
>
> Article 8 – The failure of the authorities to carry out a prompt, impartial and effective investigation and to provide redress to the applicants for the community violence they had been subjected to – i.e. the destruction of their homes and possessions – amounts to a breach of their right to respect for their home, private and family life.
>
> Article 1 of Protocol I – The facts of the case disclose a clear violation of the applicants' right to peaceful enjoyment of their possessions, namely, that the Romanian authorities have failed to provide redress for the destruction of the applicants' homes as well as their possessions.
>
> Article 13 – The applicants have been denied an effective remedy for the ill-treatment they had suffered and the destruction of their possessions.

In another case, at approximately 11:30 p.m. on August 8, 1997, 21-year-old Mr Marin Remus Marin was shot repeatedly by N.T., an off-duty police officer, near the town of Buftea, approximately 30 kilometres north of Bucharest.[62] The police claim that Officer N.T., who was on holiday in Buftea at that time, shot Mr Marin during an attempted arrest after Mr Marin and several others had been caught breaking into a private warehouse. Mr Marin was found by his mother, Ms Floarea Marin, at dawn, lying unconscious in a pool of blood by the fence of their house in Vizureşti, 8 kilometres from Buftea. He was taken by his family to the Bucharest Emergency Hospital, where he underwent surgery and remained hospitalised until August 25, 1997.[63] Investigation into the case was reportedly still open as of October 2000, more than three years later. The *ERRC* is unaware of any prosecutions in connection with the case.

Article 14, in conjunction with Articles 3, 6 (1), 8, 1 Protocol 1 and 13 – The violations the applicants suffered as a result of community violence, and the inadequate investigation which followed, were due either exclusively or in substantial part to their Romani ethnicity.

The part of the *ERRC* application in the Plăieşii de Sus case pertaining to the family of Mr A.K, one of the individuals who died as a result of injuries sustained in the revenge attack of June 6, 1991, additionally asserts the following violations:

Article 2 – The Romanian authorities failed to conduct an effective investigation capable of leading to the identification and punishment of those responsible for the death of A.K.

Article 6(1) – Under Romanian law and practice, the authorities' failure to carry out an adequate criminal investigation culminating in formal charges and a conviction has deprived the applicants of their right to a fair and public hearing within a reasonable period of time by an independent and impartial tribunal in the determination of their civil rights to establish liability and recover damages arising out of the death of their relative.

Article 13 – The applicants have been denied an effective remedy for the murder of their relative.

Article 14, in conjunction with Articles 2, 6(1), and 13 – The violations of the applicants' rights as provided for under articles 2, 6(1), and 13 were due either exclusively or in substantial part to their Romani ethnicity.

[62] For a detailed account of the incident, see Romanian Helsinki Committee, "Human Rights Developments in Romania. The Activities of the Romanian Helsinki Committee (APADOR-CH), 1998 Report," 1999, pp.46-48.

[63] Mr Marin sustained four bullets wounds to his right arm, near the elbow area, and one next to his right ear. Three bullets were extracted from his body (Medical certificate No. 225/16 of August 9, 1997, issued by the Bucharest Emergency Hospital).

A further example of ineffectual police investigation of crimes against Roma is the investigation of an incident of arson against the home of an elderly Romani woman in the town of Botez, in the Aţintiş commune in Mureş County. Ms M.K. was living in a house built during the communist era on land which had been expropriated from the D. family. Under the 1991 laws pertaining to restitution, the land was not to be returned to the D. family as long as Ms M.K. was living on it. The D. family was, instead, entitled to other land as compensation. On the evening of August 5, 1997, Mr V.D. set fire to the house of Ms M.K. and burned it to the ground, apparently under the belief that if Ms M.K. and her house were not there, he would be entitled to lay claim to the property. Mr V.D. was purportedly later overheard speaking openly about the act in a local pub. The police in Aţintiş reportedly opened an investigation, but after Mr V.D. approached Ms M.K. and offered to pay damages, Ms M.K. requested that the investigation be stopped. The police evidently agreed to cease investigating, even though under Romanian law, investigation of serious crimes, including destruction of property,[64] should continue independent of the will of the victim. In September 1997, Ms M.K. went back to the police and attempted to renew her complaint because Mr V.D. had not paid her. According to Ms M.K., the police told her that since she had withdrawn the complaint previously, it was not now possible to reopen the case. However, in response to a letter sent by the Târgu Mureş-based non-governmental organisation *Liga Pro Europa* about the case, the police stated that they were, in fact, investigating the case. *Liga Pro Europa* received a second letter in January 1998 stating that the police investigation was over and that the case file had been forwarded to the prosecutor's office. On January 26, 1998, the prosecutor brought destruction of property charges against Mr V.D. The *ERRC* was informed by *Liga Pro Europa* that Ms M.K. had eventually withdrawn her complaint again and the penal case had been closed. Ms M.K. was compensated by Mr V.D. and her house was rebuilt. However, according to representatives of *Liga Pro Europa,* Ms M.K.'s ethnicity was a significant factor in causing the police not to take her case as seriously as they might otherwise have done for a non-Romani victim. Additionally, without the intervention of a non-governmental organisation, it appears likely that Ms M.K. would never have received justice.

Police officers apparently opened an investigation into an incident between Roma and non-Roma in Lambada, on the outskirts of Cluj-Napoca, in which non-Romani assailants caused serious injuries to three Roma, but to date this investigation has resulted in no indictments. On February 27, 1999, at sometime around 10 or 11 p.m., three men entered a bar owned by Ms Esztera Pusztai, a Romani woman. According to testimony provided to the *ERRC* by eyewitnesses, the men randomly attacked customers, lashing out with fists and a set of numbchucks (a martial-arts weapon comprising sticks joined by a metal chain), and broke bottles and glasses.[65] One of the men also reportedly attacked one of the owner's sons, pulling him outside the bar and physically assaulting him there. Ms Pusztai's other son was also attacked and she herself was the victim of a vicious assault, in which she was beaten with sticks. Her injuries were such that she was unable to move around for five days and, as of the date of an *ERRC* interview on November 13, 2000, she still endured considerable pain in her chest as a result of the severity of her injuries. Her sons also both sustained serious injuries, one suffering a broken skull in the attack and the other receiving such a severe beating that a doctor certified his injuries as meriting 8-9 days medical leave. All three members of the family were in possession of medical certificates attesting to the injuries they had suffered. The assailants also allegedly stole a significant amount of money from the bar. The local chief of police reportedly considered Ms Pusztai responsible for the incident and threatened to close down her bar if any further trouble occurred there. A police sergeant took photos of the destruction of the premises and took witness statements testifying to the violence of the attack, but according to the statements of victims and witnesses, he was subsequently transferred to another district. The *ERRC* received reports in May 2001 that three persons had been convicted by a court in Gherla and sentenced to fines of 600,000-1,000,000 lei each (approximately 25-40 euros). The victim has reportedly received no compensation for her injuries, those of her sons, or the destruction of the bar.[66] The *ERRC* is investigating the possibility of legal action in the case.

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[64] Article 217(4) of the Romanian Penal Procedure Code.

In an incident in Paloş, Braşov County, in April 2000, according to reports provided to the *ERRC*, police failed adequately to investigate repeated attacks on a Romani man named Mr Vasile Florică, as well as attacks upon his family by non-Romani villagers. On the evening of April 13, 2000, two ethnic Romanians[67] reportedly attacked and beat Mr Florică and took him in their car to the police station in Caţa, a village eight kilometres away. At the station, one of the men accused Mr Florică of stealing his chickens, and then the men, joined by a police officer, reportedly beat Mr Florică again. The group then drove Mr Florică in their car towards the local cemetery. He unsuccessfully tried to escape, and was caught and beaten again. He finally managed to run away in the second attempt. On the following evening, April 14, a group of around twenty non-Roma reportedly broke into Mr Florică's house, where three of them attacked and beat him. Another member of this group allegedly took away two mattresses from the house when he left, claiming that they had been stolen from him. Two days later, on April 16, a group of non-Roma tried to set Mr Florică's house on fire but were prevented by a police officer from Caţa, who intervened after a call from a villager. Mr Florică then went into hiding for two weeks. On the day he fled, according to reports, non-Romani villagers physically attacked his wife and children. Mr Florică filed a suit against the police officer and four civilian perpetrators with the Military Prosecutor's Office, and the case was still under investigation as of July 28, 2000. Braşov Chief Military Prosecutor Colonel Titi Stoiemica told the *ERRC* on January 30, 2001, that he had never heard of the case, that he would have remembered it if it came to his office, and that in any case he believed that Paloş was not in Braşov County.[68] Since Paloş is indeed in Braşov County, the *ERRC* has serious concerns that no action has ever been taken in connection with the case.

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[65] *European Roma Rights Center* interview with Ms Esztera Pusztai, November 13, 2000, Lambada.

[66] Communication from Professor István Pogány, School of Law, University of Warwick, UK, May 17, 2001. Professor Pogány visited the victims in April 2001.

[67] These persons' identities are known to the *European Roma Rights Center*.

3.3. Prosecutorial Decisions to Cancel Proceedings

In some instances, where investigation does go ahead, prosecutors intervene to block proceedings. For example, on August 11, 1990, following a period of increased hostility between Romani and non-Romani residents of Caşinul Nou, Harghita County, and amid accusations that local Roma had engaged in theft, approximately 400 predominantly ethnic Hungarian villagers chased out the entire Romani population and burned or otherwise destroyed their houses and property. The entire community faced a very real threat of being lynched. In the aftermath, approximately one hundred and fifty people were left homeless.

Following the filing of a complaint with the Harghita County Prosecutor's Office by the victims, several witnesses were questioned by the police. A few gave detailed statements as to how the events had unfolded, what their own role had been, and named other people involved. At the same time, however, the police failed to conduct an on-site investigation and found no reason to have experts ascertain the extent of the pecuniary damage caused by the attack.

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[68] *European Roma Rights Center* interview with Braşov Chief Military Prosecutor Colonel Titi Stoiemica, January 30, 2001, Braşov.

On November 27, 1990, the Harghita County Prosecutor's Office issued a decision to terminate the investigation, arguing that, given the large number of people involved, it was impossible to identify the perpetrators. However, in February 1991, the General Prosecutor's Office overturned this decision and ordered that the investigation be reopened. The General Prosecutor's Office specifically stated that the fact that numerous people were involved in the incident could not be regarded as grounds for terminating an investigation. However, it was not until six months after the orders of the General Prosecutor, in September 1991, that the Harghita County Prosecutor's Office requested the Harghita County Police to reopen the investigation. On October 3, 1991, the police interviewed a handful of witnesses, all of whom declared they knew nothing about the events in question. In the next four years, apparently no further police investigative work was carried out. On September 7, 1995, the Harghita County Prosecutor's Office again issued a decision to terminate the investigation.

In July 1998, attorney Vasile Ghere of the *Lawyers' Association for the Defence of Human Rights (APADO)*, acting as a representative of the Romani victims, filed a new criminal complaint with the Prosecution Department of the Supreme Court. Several months later, on October 5, 1998, the Prosecution Department of the Târgu Mureş Court of Appeal, to whom the case had been referred, pronounced its decision not to bring any criminal charges for destruction of property (Article 217 of the Criminal Code). The decision stated that no criminal charges could be brought because the statute of limitations for this charge expired after a period of five years from the date on which the offence was committed. At the same time, the Prosecution Department of the Târgu Mureş Court of Appeal also concluded that there was no evidence to indicate that an aggravated form of destruction of property, pursuant to Article 218(1) of the Criminal Code, had been committed. Thus a longer prescribed period for aggravated destruction of property (ten years as opposed to five) was not applicable.

On October 28, 1998, the representative of the victims appealed this decision before the Prosecution Department of the Supreme Court, which on January 16, 1999, confirmed the decision of the Prosecution Department of the Târgu Mureş Court of Appeal. This verdict ended possibilities for domestic remedy.

The closing of the Caşinul Nou case without any of those responsible having been brought to justice is a result of the Romanian authorities utter failure to carry out an adequate investigation commensurate with the seriousness of the incident. As a consequence, they failed to provide redress to the victims of a violent attack, in violation of their obligations under domestic and international law. Human rights activists in Romania have reported to the *ERRC* that the Caşinul Nou case is not unique, and that prosecutors frequently end proceedings with no indictments where Roma are victims and non-Roma perpetrators. One representative of a non-governmental organisation told the *ERRC* that such cases "occur frequently enough to constitute a pattern."[69]

On March 12, 2000, on behalf of one of the victims, the *ERRC* filed an application with the European Court of Human Rights in Strasbourg, alleging that the Caşinul Nou incident involves breaches of a number of rights protected by the ECHR.[70] The case was pending before the Court as this report went to press.

3.4. Retaliatory Indictments of Roma

In some cases, officers have brought indictments against Roma who complain that they have been victimised by non-Roma or by the police.

In one case documented by the *Romanian Helsinki Committee*, a Romani man who reported a violent break-in found himself first detained by police, then physically abused while in custody, and finally indicted for assault. According to the organisation, on December 24, 1999, at around 12:30 AM, three non-Romani villagers broke into the house of Mr Petre Muscăloiu, a 30-year old Romani man from the village of Perişoru in Brăila County. Two of the attackers[71] – Mr R.P. and Mr G.C. – started ransacking the house and the third one, Mr G.B., attacked and sexually assaulted Mr Muscăloiu's wife, Lenuţa. Attempting to defend his wife, Mr Petre Muscăloiu took a scythe and hit Mr G.B. in the legs with it. After the incident, Mr G.B. ran away from the house and Mr Petre Muscăloiu ran away also, fearing that Mr G.B's friends would avenge the attack.

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[69] *European Roma Rights Center* interview with István Haller, June 21, 2001, Târgu Mureş.

[70] The *European Roma Rights Center* application in the Caşinul Nou case alleges the same violations of the ECHR as those listed in the Plăieşii de Sus case above.

[71] The attackers' full names are known to the *ERRC*. According to the *Romanian Helsinki Committee*, the same two people had broken into the Muscăloiu's house at night in the beginning of December 1999. Following this incident, the Muscăloius lodged a complaint with the Ianca police station. See Romanian Helsinki Committee, "Report on the Case of Petre Muscăloiu", April 2000, on file at the *ERRC*.

At the request of Mr Muscăloiu's wife, a neighbour called the police from Ianca. Police arrived and took her to the station. Shortly thereafter, Mr Muscăloiu himself went to the police. Ms Muscăloiu was released at around 4:30 a.m., but Mr Muscăloiu was detained and remanded into custody. He spent the night in a police cell. On the following day, December 25, at about 8:30 a.m., a police officer arrived at the police station and reportedly beat Mr Muscăloiu, hitting him with his fists, kicking him, and banging his head against the wall. Mr Muscăloiu also alleged that a civilian, whom he recognised as Mr P.B, Mr G.B's brother, also came to the police station and started beating him in the presence of the police officer. The latter reportedly witnessed, without interfering, the beating of Mr Muscăloiu. Mr Muscăloiu alleged that the two actually took turns beating him; then he fainted and they poured water on him. At around 12:00 noon, Mr Muscăloiu was released. As a result of the beating, Mr Muscăloiu suffered massive bruises on his head and back.[72] Shortly after he and his wife returned home, police officers from Ianca police station, including the police officer who had allegedly beaten him while in custody and Mr P.B., went to their house to collect evidence of the previous night's attack. The police allegedly ignored evidence pointing to the fact that Mr Petre Muscăloiu acted in the defence of his wife when he hit Mr G.B. with the scythe and were evidently not interested in investigating the sexual assault upon his wife.

The Brăila District Prosecutor's Office charged Mr Muscăloiu with causing serious physical injury.[73] According to the indictment act, Mr Muscăloiu had attacked Mr G.B. with a scythe in the street.[74] Mr Muscăloiu reportedly filed a complaint with the Military Prosecutor's Office in February 2000 concerning the treatment he suffered while in police custody; however, to date, the *ERRC* is not aware of any progress in the case.

Mr Daniel Vasile, a lawyer in Bucharest, reported another case to the *ERRC* in which members of a Romani family faced retaliatory action from the authorities because they dared to file a complaint against the police. In February 1998, according to Mr Vasile, a Romanian family filed complaints about harassment by a Romani family, the S. family, with whom they shared a courtyard.[75] Mr Vasile states that these allegations were entirely false and were made because of an unrelated dispute. The Romanian family reportedly complained regularly to the police, who responded by visiting the Romani family on a monthly basis and charging them fines of between 500,000 and 1 million lei (approximately 20-40 euros) for disturbing the peace. Mr Vasile wrote a complaint concerning the fines to the Ministry of Interior, acting on behalf of the family, and the Ministry contacted the local police station responsible for administering the fines and ordered them to investigate the S. family's allegations of police harassment. However, instead of investigating thoroughly the allegations of harassment and the actions of the police in response, the police reportedly responded by interrogating the head of the Romani family, Mr N.S., trawling through his life looking for minor infractions of the law. Their investigations found that in 1994 he had made a declaration in his application for state housing, asserting that he and his family had had no previous residence, whereas in 1992 he and his family had for a short time in fact lived in a rented property, which they had to leave later the same year, becoming homeless. Mr N.S. was therefore charged with the offence of making a false declaration and, as this report went to press, according to Mr Vasile, faced 2-15 years imprisonment if convicted.

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[72] Medical certificate No 54/3 January, 2000, issued by the forensic service of Bujan, available at the *Romanian Helsinki Committee* archive.

[73] Indictment No 159/P/2000, issued by the Brăila District Prosecutor's Office, Făurei, file available at the *Romanian Helsinki Committee* archive.

[74] Romanian Helsinki Committee, "Report on the Case of Mr. Petre Muscăloiu", April 2000, *Op. cit.*

Romanian human rights organisations have also reported instances in which police attempt to discourage Roma from reporting human rights abuse by imposing arbitrary fines on them.[76] For example, in one case reported by *APADO*, on August 20, 1998, Ms Claudia Ciurar, Ms Luminiia Bratu, and Ms Elena Ponci, Romani women from Codlea, Braşov County, went to the local police station to report that one of the women's brother, Mr Petre Ponci, had been beaten and robbed. The three women brought the victim, while still unconscious, to the police station, where a policeman offered them assistance in transporting the unconscious Mr Ponci to the hospital, and told them to return to the police station to file a complaint about the incident. Following his advice, the three women went to the hospital, where they left Mr Ponci. Upon their return to the police station, the women found that they had become the subject of a misdemeanour report, which stated that "they formed a group which by shouting and yelling had disturbed public order."[77] The three women were reportedly fined 500,000 lei (approximately 25 euros) each. Police reportedly did not open criminal proceedings in connection with the reported beating and robbery of Mr Ponci.

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[75] *European Roma Rights Center* interview with Mr Daniel Vasile, January 31, 2001, Bucharest. Mr Vasile was acquainted with the facts of the case as a result of being the legal representative of the victims.

[76] Pursuant to Law No 61/91 on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order the police may fine citizens for violations of public order. Failure to pay fines may lead to imprisonment for several days. Police take advantage of the fact that Roma are poor and are thus in most cases unable to pay the fines or hire a lawyer to challenge the misdemeanour report. Faced with the serious threat of being charged with violation of public order and consequently fined or imprisoned, Roma are unlikely to go to the police and complain about instances of abuse. *Amnesty International* has noted that "the terms used in proscribing some of the offences in Article 2 [of Law No 61/91 on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order] are vague and ambiguous. For example: Article 2 (1)(a), prohibits 'actions which could disturb public peace and order or arouse the indignation of citizens or damage their dignity and honour or cause damage to public institutions.' The terms 'dignity' and 'honour' are not defined by this or any other law in force." See Amnesty International, *Op. cit.*

3.5. Immunity from Prosecution for Police Officers

Immunity from prosecution is nearly guaranteed when the suspected culprits are police officers. Where the Romanian judicial system has been slow, biased, and handed down unsatisfactory rulings in instances of violence against Roma by non-state actors, police violence against Roma is remedied only in the absolutely exceptional case. In the overwhelming majority of cases in which allegations of police abuse are made, Romanian investigation and prosecution authorities have ignored their obligation to ensure the right of Roma to an effective remedy. Prosecutors commonly refuse to open criminal investigation into allegations of police abuse against Roma.[78] Where criminal proceedings against police officers have been initiated, investigation procedures are often extensively delayed and/or the cases have been closed with no indictment decisions.[79]

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[77] *Lawyers' Association for the Defence of Human Rights (APADO)*, "The minor offence fines – intimidation system of the Roma by the public authorities", The White Book, 1999, Brașov.

[78] The failure of the authorities to conduct an investigation where an individual raises an arguable claim of unlawful violence by state agents violates Article 3 of the ECHR. In its ruling on the case *Assenov and Others v. Bulgaria*, of October 28, 1998 – a case involving a Romani man from Bulgaria – the European Court of Human Rights found that the Government had violated Article 3 of the ECHR (prohibition on torture) by failing to undertake an effective official investigation even though Assenov had raised an arguable claim to have been mistreated by the police. The Court held that, "where an individual raises an arguable claim that he has been seriously ill-treated by the police or other such agents of the State unlawfully and in breach of Article 3, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to 'secure to everyone within their jurisdiction the rights and freedoms in [the] Convention', requires by implication that there should be an effective official investigation." The Court went on to specify that "[t]his obligation ... should be capable of leading to the identification and punishment of those responsible." (see *Assenov and Others v. Bulgaria*, Judgement of 28 October 1998, *Reports*, 1998 – VIII).

In one case, on October 20, 1998, according to information provided to the *ERRC* by *APADO*, a 47-year-old Romani man named Nicolae Gheorghe died shortly after being released from police custody, reportedly as a result of physical abuse he had suffered while in police detention. According to witness reports provided to *APADO*, Mr Gheorghe had resisted arrest and fled during an attempt to detain him at around 11:00 a.m. on October 20, and the officer attempting to make the arrest had been overheard by a witness angrily shouting that he would "bring Mr Gheorghe back dead to the police station." At around 11:30 a.m., Mr Gheorghe was detained by officers who took him to the police station in the town of Budila, Braşov County. Relatives of the victim who witnessed his arrest stated that Mr Gheorghe was taken to the police station in the trunk of the police car.[80] Mr Gheorghe's sister, Ms Ana Brumar, reportedly went into the police station about fifteen minutes after her brother's detention. There, Ms Brumar saw her brother on a chair, sweating profusely, and when she tried to help him stand up, he fell to the ground. Ms Brumar was reportedly ordered by a police officer to take Mr Gheorghe home, as he was drunk. Ms Brumar told *APADO* lawyers that her brother had not been drinking any alcohol before the arrest. Mr Ştefan Sorin and Ms Marsavela Anişoara, whom Mr Gheorghe had visited on October 20, between 8:00 and 9:00 a.m., also stated that Mr Gheorghe had not consumed any alcohol.[81] With the help of two other people, Ms Brumar brought Mr Gheorghe outside, where she noticed that her brother's nose and mouth were bleeding. They took him home at about midday. Four hours later, he died. Despite what *APADO* describes as "several significant indications that the victim had died a violent death,"[82] the official autopsy report concluded that Mr Gheorghe had died of severe intoxication (i.e., purportedly as a result of the effects of alcohol) and a heart attack.[83]

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[79] Romanian expert Monica Macovei has written that "Prosecutors may also frustrate victims by dragging out their inquiry. They are not required to complete the investigations within a specific amount of time. Most cases last more than a year. The delay leads some victims to give up and allows officers plenty of time to intimidate them." (See Macovei, *Op. cit.*, p.115).

[80] Such treatment arguably violates Article 7 of the International Covenant on Civil and Political Rights (ICCPR), which states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 1(1) of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Romania is a party, defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. [...]" Article 2 of the same Convention urges states parties to "[...] take effective legislative, administrative, judicial or other measures to prevent acts of torture [...]" Romania ratified the CAT on December 18, 1990. Article 3 of the ECHR states: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

On November 6, 1998, Mr Gheorghe's family filed a complaint against the police with the Braşov County Military Prosecutor's Office, requesting that another autopsy be carried out. This request was reportedly refused. Military prosecutors in both Braşov and Bucharest issued non-indictment decisions on the case, on November 13, 1998, and May 17, 1999, respectively. No one has been brought to justice for the death of Mr Nicolae Gheorghe.

In another case, documented by the *ERRC*, at about 3 a.m. on March 2, 2000, two police officers and two gendarmes – men serving in the military and performing rudimentary policing duties – were patrolling the Valea Rece neighbourhood of Târgu Mureş, when they were reportedly attacked by Mr S.B., a Romani man who was allegedly under the influence of alcohol at the time. According to eyewitnesses, the four officials punched Mr S.B., knocking him to the ground, and then kicked him repeatedly. Romani residents witnessing the beating intervened, begging the four officers not to beat Mr S.B. to death but instead to arrest him. Shortly thereafter, a group of approximately 25 police officers arrived at the scene. The officers chased the Romani inhabitants and forced some into cars, apparently in order to take witness statements from them at the police station. Officers reportedly struck Ms E.V. with a truncheon. Three other women, Ms I.B., Ms M.G. and Ms E.L., also reported that the police beat them. One police officer allegedly pulled a woman named Ms R.P. by the hair and, according to eyewitnesses, the police used racial epithets, such as, "take it, Gypsy!" when chasing and hitting Roma present.[84]

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[81] *Lawyers' Association for the Defence of Human Rights (APADO)*, "Report Concerning the Case of Nicolae Gheorghe", communicated to the *ERRC* on September 15, 2000.

[82] *Lawyers' Association for the Defence of Human Rights (APADO)*, "Report Concerning the Case of Nicolae Gheorghe", *Op. cit.*.

[83] Autopsy report No 571/AUT/1998, issued by Dr Barabás Barna, Braşov Laboratory of Forensic Medicine, on file at *APADO*.

[84] *European Roma Rights Center* interview with Ms I.B., March 2, 2000, Târgu Mureş; *European Roma Rights Center* interview with Ms M.G., March 2, 2000, Târgu Mureş; *European Roma Rights Center* interview with Ms E.L., March 2, 2000, Târgu Mureş.

Ultimately the police brought two men, Mr C.V. and Mr A.C., to a Târgu Mureş police station. They were ordered to testify about Mr S.B.'s behaviour and were released without charge at approximately 7:00 p.m. Mr S.B., meanwhile, was arrested and subsequently charged and found guilty of committing an offence against an authority under Penal Code Article 23(2). On February 14, 2001, he was convicted of violence against a public authority and was serving a four-year prison sentence in connection with the case as this report went to press. In the aftermath of the incident the victims of the police abuse refrained from filing complaints against the police. The Roma told the *ERRC* that they were afraid to do so because they believed that the police would punish them for not being in possession of legal residence permits in Târgu Mureş.[85]

Liga Pro Europa submitted a complaint to the Târgu Mureş Military Prosecutor's Office, alleging ill-treatment of the Roma from the Valea Rece neighbourhood as defined under Articles 180 and 246 and 247 of the Romanian Penal Code. On March 16, 2000, the *ERRC* also sent a letter to the Military Prosecutor's Office of Târgu Mureş, urging that a prompt and thorough investigation into the allegations of police brutality against the Roma in Valea Rece be carried out, and that those responsible be brought to justice.[86] In a letter to *Liga Pro Europa* dated March 31, 2000, the Military Prosecutor's Office of Târgu Mureş explained the refusal by that office to open criminal proceedings by claiming that there had been no evidence that the police officers had acted in violation of the law and that there had been no complaints from the victims. The *ERRC* has noted a general trend that where no formal complaint has been made, authorities do not investigate allegations of police abuse on their own initiative.

Another example of the failure to prosecute police officers concerns the case of Mr Liviu Cioc and his family. According to testimony provided to the *ERRC* by victims and witnesses,

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[85] Romanian law requires individuals to have permanent residence in a given municipality, as well as to register with police in municipalities of temporary residence; failure to comply with the latter regulation is a misdemeanour under Article 29 of Law 105/1996. Failure to secure permanent residence in the place where one *de facto* resides can result in a denial of basic rights such as education, adequate housing, and health and social services. According to human rights researcher Ina Zoon, "The domicile requirement, although outwardly neutral, has a disparate impact on the Romani community. The Roma are overrepresented in almost all categories of persons who have difficulty complying with this regulation [...]." (Zoon, Ina, *On the Margins: Roma and Public Services in Romania, Bulgaria and Macedonia,* Open Society Institute, New York, 2000, p.34).

[86] The full text of the *ERRC* letter is available on the Internet at: **http://errc.org/publications/indices/letters/2000/romania_march_17_2000.shtml.**

Mr Liviu Cioc, a Romani man from Târgu Mureş, was seriously ill-treated by police officers A.H. and V.P. on the evening of August 11, 1997. According to testimony provided by Mr Cioc's wife Rodica Arman, they were visiting a family member in the village of Orşova de Pădure in Mureş County, when four police officers, A.H., P.C., D.F., I.R., and a civilian named V.P., all allegedly under the influence of alcohol, forcibly entered the house, saying that they were looking for Mr Danuţ Cioc, another member of the family. When Mr Liviu Cioc told the intruders that Danuţ had moved to another village, A.H. and V.P. reportedly grabbed him and started beating him with their fists. The other police officers then joined in. Ms Arman attempted to intervene and aid her husband, but the men beat her as well. The two men also allegedly attacked Liliana, the couple's daughter. The officers then reportedly pulled Mr Liviu Cioc out of the house, and while continuing to beat and kick him all over his body, forced him into their car. They then drove him to a remote place outside the village where they left him by the side of the road. Mr Cioc managed to return to his house the same night and he went to the hospital the following day. He was admitted to Mureş County Hospital and remained there from August 12 to 22, 1997. According to the medical certificate he acquired from the Legal Forensic Institute of Târgu Mureş, his injuries required 22-24 days of medical treatment.

Mr Cioc reportedly filed a complaint against the police while he was hospitalised on August 12, 1997. On September 13, 1997, however, Mr Cioc was visited by a group of men which included police officers, the civilian V.P., and the mayors of Ideciu and Ibăneşti, the villages in which the Cioc family lives and in which the local police station is located, respectively. They reportedly put Mr Cioc under strong pressure to sign a declaration stating that Mr V.P. would pay him 4 million Romanian lei (approximately 200 euros) if he did not pursue his complaint. Mr Cioc refused to sign.

Mr Cioc turned to the non-governmental organisation *Liga Pro Europa* for help in late March 1998, providing the organisation with a copy of his original complaint against the police, filed with the Military Prosecutor's Office in August 1997, along with a cassette containing half-an-hour of recorded evidence of the visit on September 13, 1997. *Liga Pro Europa* sent the cassette to the Military Prosecutor's Office of Mureş County on April 9, 1998, expressing concern about the police conduct and asking to be informed of the status of the case. On April 14, 1998, the Military Prosecutor's Office informed *Liga Pro Europa* that based on the new evidence submitted by them, the office had re-opened the previously closed investigation into the incident.

This prompt initial reaction notwithstanding, no criminal charges were brought against the police officers involved in the ill-treatment of Mr Cioc. On April 13, 1999, the Military

Prosecutor's Office of Mureş County closed the case with the conclusion that there had been no abuse of power on the part of the police officers. In response to the decision, *Liga Pro Europa* sent a letter to the Military Department of the General Prosecutor of Romania, urging officials to reopen the case. In a letter dated July 19, 2000, General Dan Voinea, Chief Military Prosecutor, informed *Liga Pro Europa* that the decision on file No. 112/P/97 of the Târgu Mureş Military Prosecutor Office not to indict the two police officers had been legal and well-founded. The decision of the Chief Military Prosecutor to uphold the non-indictment act of the Târgu Mureş Military Prosecutor's Office is final and in this case Mr Cioc had no other means to seek legal remedy within the Romanian criminal justice system. The *ERRC* was informed that according to police decision No 189.311 of June 15, 1999, Officer A.H. had been subjected to internal disciplinary measures consisting of five days unpaid service. The *ERRC* regards the reported punishment as inadequate given the gravity of the case, and unlikely to deter such incidents in the future.

In another case, officers physically abused and used racist language and ethnic slurs with 17-year-old Gheorghe Notar after they had taken him into police custody. Although the incident occurred in July 1996, to date – five years later – no one has been punished for the crimes. According to the testimony of the victim and that of his parents, on July 7, 1996, at approximately 6:30 p.m., Gheorghe Notar, his brother Florin Notar (aged 13), Rupi Stoica (aged 16) and Ioan Ötvös (aged 15), were detained by the Târgu Mureş police as suspects in a robbery earlier that day. Gheorghe Notar alleged that in the police station he was repeatedly beaten by several police officers trying to force a confession. Despite the fact that when Gheorghe Notar was confronted with the alleged victim of the robbery, the latter did not identify him as one of the perpetrators, police officers attempted to force him to make a written statement acknowledging his guilt of this and other crimes. As Gheorghe would not confess to the crime, his written statements were repeatedly destroyed and the police threatened that he would be kept in detention until he confessed. The entire interrogation of Gheorghe Notar and the other Romani youths, which continued until around 11:30 p.m., took place in the absence of legal counsel, a violation of the Romanian Penal Procedure Code.[87] Neighbours reportedly informed the Notars' parents of their sons' detention. At about 8 p.m., Ms Ana Notar, the Notar brothers' mother, went to the police station where her sons were being detained and was granted access to them. She noticed that Gheorghe had signs of physical abuse about the head, face and hands. Later, when Ms Notar forcefully entered a room in the police station, she saw her sons and the other two boys, each standing on one leg with their hands up. She had allegedly heard a police officer yelling at the boys: "You, Gypsies, it is because of you that I have to stay on at work, I should have left at 6:00 p.m. and gone home to my family!" After 11:30 p.m., Florin Notar was released and Gheorghe Notar and the other two boys were taken to the Centre for the Protection of Minors, a facility for juvenile delinquents. On July 8, Mr Gheorghe Notar Sr., the father of the Notar brothers, visited Gheorghe Jr. at the centre. He observed visible marks of beating on his son's body and requested a medical examination, which was allegedly refused by an educator at the centre.

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[87] See Article 171 of the Romanian Penal Procedure Code, which states: "The suspect or the accused has the right to be assisted by a lawyer throughout the course of the penal investigation and the judicial proceedings. Furthermore, the judicial authorities are obliged to inform the suspect or the accused of this right. Legal assistance is obligatory if the suspect or the accused is a minor, a soldier, a student in a military unit, interned in a re-education centre or educative-medical institute, or if the suspect is facing charges in connection with other cases. During trial, legal assistance is obligatory also in cases where the law

Apparently with the consent of police officers, Gheorghe Notar was subsequently publicly humiliated on a local television channel by being filmed, and shown on an evening news broadcast, presented as a "criminal". On July 9, Gheorghe Notar Jr., Rupi Stoica and Ioan Ötvös were taken back to the police station where, during interrogation about the robbery, they were allegedly made to beat each other. While in the police station, Gheorghe Notar was filmed by the local television station *TV Antena 1* and in the broadcast the same evening, it was stated that Gheorghe Notar had committed the July 7 robbery, a violation of the right to be presumed innocent until proven guilty.[88] In the remaining days until their release from the centre on July 12, the boys were reportedly forced to take cold showers. On July 12, the three boys were transported from the centre to the police station, where witnesses noticed that their heads were shaven and that Gheorghe Notar had serious bruises on his head. They were then released.

On July 26, 1996 Mr Gheorghe Notar filed a complaint with the Military Prosecutor's Office of Târgu Mureş on behalf of his 17-year old son Gheorghe alleging unlawful arrest and ill-treatment. A similar complaint was filed by the mother of Ioan Ötvös. On

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prescribes a punishment of more than five years, or when, in the opinion of the court, the accused cannot defend himself. Where legal assistance is obligatory, and the suspect or accused has not chosen a lawyer, measures shall be taken to assure an appointed counsel for the defendant. [...]" (unofficial translation for the *ERRC)*.

[88] Article 6(2) of the ECHR states: "Everyone charged with a criminal offence shall be presumed innocent until proven guilty according to law."

July 15, 1996, the Târgu Mureş-based non-governmental organisation *Liga Pro Europa* also filed a complaint on behalf of Gheorghe. This complaint alleged unlawful detention, absence of counsel and legal guardians during the interrogation of a minor, and inhuman and degrading treatment.

The investigation into the police abuse of Gheorghe Notar, conducted by the Târgu Mureş Military Prosecutor's Office, was terminated without indictment by the Bucharest Territorial Military Prosecutor's Office on December 19, 1996.[89] In support of his decision, the Military Prosecutor stated that Gheorghe Notar, together with the other three boys, had committed a robbery, and this was justification for the treatment he had received.

On February 17, 1997, the Târgu Mureş Prosecutor's Office terminated the investigation for robbery against Gheorghe Notar, Florin Notar and Ioan Ötvös. Only Rupi Stoica was indicted. On February 26, 1997, following a petition filed by Mr Notar, the Military Section of the General Prosecutor's Office repealed the December 1996 decision to terminate investigation into police actions and ordered a new investigation into the case to be conducted by the Bucharest Territorial Military Prosecutor's Office. On May 21, 1997, however, a second non-indictment decision was issued. In support of this second decision, the Military Prosecutor stated again that the boys had committed a robbery, the prosecutor's finding of no wrongdoing in the robbery case notwithstanding. On October 6, 1997, the Military Prosecutor's section at the General Prosecutor's Office this time upheld the non-indictment decision.

In addition to both the abuse and the denial of an effective remedy, police officers have apparently also intimidated the Notar family because of their persistent efforts to obtain justice. On the afternoon of March 16, 1998, two police officers reportedly came to the home of the Notar family and told Mr Notar that he should present himself as a witness in a case of theft that had occurred in their neighbourhood. They then pushed Mr Notar, forcibly entered his home and confiscated the identification documents of three men there, Mr Călin Berar, Mr Florin Cioc and Mr Chirilă Morar, all of whom except Mr Morar are Roma.[90] Despite police intimidation, on August 17, 1998, Mr Gheorghe Notar, in co-operation with the *ERRC*, filed an application with the European Court of Human Rights, protesting the violation of his rights and the failure of the state to provide an effective remedy.[91] The case was pending as this report went to press.

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[89] The Military Prosecutor released the police officers from criminal liability notwithstanding the fact that on September 12, 1996, when questioned, the alleged victim of the robbery, Mr András Vass, testified that while in the police station following the robbery, he had seen two police officers strike Gheorghe and three other boys with truncheons on their backs and palms. On December 9, 1996, Mr Vass was summoned again to the Military Prosecutor's Office. Following interrogation on that date, the Military Prosecutor wrote that the witness did not sustain his previous statements and that he had not seen any beatings.

In July 1999, on the occasion of the United Nations Human Rights Committee's review of Romania's compliance with the International Covenant on Civil and Political Rights, the *ERRC* submitted a list of 19 cases of police abuse of Roma that had been reported in Romania in the period 1996-1998.[92] As of June 22, 2001, with the exception of one case in which a police officer was indicted for shooting and killing a Romani man in May 1996, only to be acquitted by the Bucharest Military Court, none of these cases monitored by the *ERRC* resulted in an indictment of the police officers involved.[93] Nor have any of the cases reported to the *ERRC* since 1998 resulted in indictments.

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[90] In subsequent interrogation at the local police station on March 18, 1998, police officers unsuccessfully attempted to force the three men to sign a statement dictated to them about the way in which the two police officers had entered the house of Mr Notar. According to this statement, the police had come to the Notar's home because they had been called there. After approximately one and half-hours of questioning, the police returned their identification documents and released the three men without charge. Chief of the Mureş County Police Mr Vasile Cotoară failed to respond to an *ERRC* letter of concern dated March 23, 1998, regarding this incident. In response to a letter sent by ***Liga Pro Europa*** concerning the same incident, however, the Mureş County Police wrote on March 24, 1998, that criminal proceedings against the two police officers had been launched, and that the case would be forwarded to the Military Prosecutor as soon as the police had concluded its investigation. On April 15, 1998, the police informed ***Liga Pro Europa*** that they had forwarded the case (file 126/b/1993) to the Mureş County Military Prosecutor's Office. According to information provided to the *ERRC*, the victims were, shortly thereafter, intimidated into withdrawing their complaint against the police and no officers were prosecuted.

[91] The application to the European Court of Human Rights alleges violations of the following Articles of the European Convention of Human Rights and Fundamental Freedoms: Article 3 (prohibition on torture); Article 5, paragraphs 1, 2, 3, 4 and 5 (the right to liberty and security of person); Article 6, paragraphs 1 and 2 (the right to a fair trial); Article 13 in conjunction with Articles 3 and 5 (the right to an effective remedy); and Article 14 (non-discrimination), in conjunction with Articles 3, 5 and 13.

[92] See European Roma Rights Center, "Cases of Relevance to the International Covenant on Civil and Political Rights in Romania Submitted by the European Roma Rights Center for Consideration by the United Nations Human Rights Committee at its 66th Session, 12-30 July, 1999", on the Internet at **http://errc.org/publications/legal/HRC-Romania-July-99.rtf.**

[93] Commenting on the situation in Romania in late 1999, Human Rights Watch noted: "The police continued to use excessive force in making arrests and pursuing criminal suspects, and such cases rarely resulted in

Police violence against Roma in Romania persists in an environment in which racist stereotyping of Roma is rampant. The relationship between Roma and the police in Romania is burdened from the outset by the widely held belief that Roma are criminals. Police abuse proceeds from a basic suspicion of guilt of the Roma by police officers,[94] as well as an overall tendency to use force as a component of criminal investigations. Judicial authorities tacitly endorse such practices by lending undue weight to confessions in criminal cases, as well as by their inactivity in prosecuting officers for reported physical abuse of suspects. The status of the police as an organ of the military, and its concomitant position within the jurisdiction of military courts, also contributes to its insulation from accountability. Magnified by frequent occurrence at every step of the criminal justice system, subtly or intensely biased decisions produce an overall effect of denial of justice where Roma are victims and officers are alleged perpetrators.[95]

It appears that high-ranking Romanian officials are not only oblivious to their responsibility to counter racism, but themselves contribute to perpetuating anti-Romani sentiment by public defamation of Roma. On December 4, 1999, Brigadier General Mircea Bot, then-head of the Bucharest police department, made a number of defamatory comments with regard to the Roma in an interview for the Romanian daily newspaper *România Liberă*. General Bot made extensive comments on "Gypsy criminality and Gypsy gangs" and asserted that "up until now Gypsy people were used to stealing and robbing",

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prosecution or disciplinary measures", See Human Rights Watch, "Human Rights Watch World Report 2000", December 1999, p.284.

[94] Brigadier General Lazăr Cârjan, the Director of the Directorate of Judicial Police for example, told the *ERRC:* "Roma commit many offences. Roma have no jobs, they are dangerous for the community where they live, as many of them cannot prove the origins of their money" (***European Roma Rights Center*** interview with Brigadier General Lazăr Cârjan, May 18, 2000, Bucharest). Similarly, Braşov County Chief Military Prosecutor Colonel Titi Stoiemica told the *ERRC:* "More Gypsies are criminals than Romanians." Colonel Stoiemica additionally told the *ERRC:* "When Gypsies make complaints about police brutality, we investigate, but their stories are rarely true. Gypsies have not yet been able to prove that the police have abused them in Braşov." (***European Roma Rights Center*** interview with Braşov County Chief Military Prosecutor Colonel Titi Stoiemica, January 30, 2001, Braşov).

[95] Bias is not confined to the police. Mr Daniel Vasile (27), a Romani lawyer in Bucharest, for example, told the *ERRC:* "The word 'Gypsy' is used in court documents, and once when I told a court that this was offensive, the judge told me that Gypsies behave differently than Romanians, that they have criminal tendencies and that therefore a court needs to know that they are Gypsies. The presumption of innocence doesn't work for Roma." (***European Roma Rights Center*** interview with Mr Daniel Vasile, January 31, 2001, Bucharest).

while "now" they are focused on "financial criminal acts [...]". In the conclusion of the interview General Bot stated that "there are Gypsies who are born criminals, and [...] do not know anything else than to commit criminal acts."[96] The article was printed along with a list of "the addresses of Gypsy criminals in Bucharest." The *ERRC* is not aware of any adequate disciplinary measures taken against General Bot in response to his public racist statements.

3.6. Summary: The Culpable Victims

The typology provided above includes no category for "cases thrown out by courts". This is because, with very noteworthy exceptions such as the Hădăreni pogrom, where judicial proceedings were driven at all points by international pressure, cases of anti-Romani crime are so unlikely to reach courts that a category to discuss such cases would make little sense here.

The indictment act for the Hădăreni case, issued on August 12, 1997 by the Prosecutor's Office at the Târgu Mureş Court of Appeal, described the situation prior to the pogrom in the following manner: "Generally speaking, due to their social condition and the rejection of those moral values commonly accepted by the community, the Gypsies excluded themselves from social life, displaying aggressive behaviour, and intentionally denying the norms imposed by society."[97] After four years of inadequate activity with respect to the grave crimes committed against Roma during the Hădăreni pogrom, the decision of judicial authorities to indict some of those responsible was a step forward on the route to justice. The importance of this step, however, was greatly diminished by the explicit anti-Romani bias evident in the text of the indictment act. Widely held racist stereotypes were reiterated, and the prosecutor's indictment at points appeared to be an accusation against the victims: "Groups of Gypsies *(ţigani)* have been the source of numerous conflicts with the young people from the village, as they show aggressive behaviour, using force in order to acquire money and goods. [...] Generally speaking, some of these Gypsies behaved like 'masters', defying any social norms. [...] In light of the uncivilised behaviour of the Roma, as well as their acts of violence, conflicts of degenerated enmity broke out ."[98]

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[96] *România Liberă*, December 4, 1999.

[97] Ministry of Public Affairs, Court of Appeal, Târgu Mureş Prosecutor's Office, Case Nr.1/P/1993, August 12, 1997.

[98] *Ibid.*

Romanian officials commonly blame Romani victims for crimes committed against them. In the cases of Caşinul Nou and Plăieşii de Sus, investigating authorities saw the behaviour of the victims as constituting formal justification for the exoneration of the perpetrators. The Prosecutor's Department at the Târgu Mureş Court of Appeal, rejecting a criminal complaint submitted by the victims of the Caşinul Nou pogrom stated that the offence at issue had been committed "due to serious provocative acts of the victims."[99] The same justification was also present in the Prosecution Department's rejection of the criminal complaint submitted by the victims of the Plăieşii De Sus pogrom. Similarly, a written statement distributed by the Romanian delegation at a 1996 Review Conference of the Organisation for Security and Co-operation in Europe stated that "The conflicts involving Gypsies started on the ground of tension generated just by the way of life of some of them, who by illegal activities were affecting the fundamental rights of others [...]."[100] In addition, at high levels of the Romanian judicial system, there is denial that there is anything wrong. One employee of the Ministry of Justice, for example, told the *ERRC:* "According to the law, the police and prosecutors must not discriminate and I do not think they do, because we do not receive any complaints here."[101]

Romania, as a signatory to the European Convention on Human Rights and the International Covenant on Civil and Political Rights, is responsible for ensuring that the human rights of all within its jurisdiction are respected.[102] Romanian authorities have an obligation to ensure the right of Romani communities, families or individuals to live free from assault, and to receive adequate redress when their rights have been violated.

The *ERRC*'s monitoring of the administration of justice in Romania has established that Romani victims have been overwhelmingly denied the right to justice and compensation for crimes committed against them, including crimes committed during the savage pogroms in the early 1990s. Official information regarding the number of persons who were tried and convicted for participating in the pogroms is both inconsistent and implausible.[103] In those few cases which received considerable international attention, such as the Hădăreni pogrom, judicial activities have failed to lead to a comprehensive redress of the serious harm inflicted on their Romani victims. To date, impunity for human rights abuses against Roma has held sway.

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[99] European Court of Human Rights Application no. 57885/00, on file at the *ERRC*.

[100] See "Aspects concrets de la situation des Roma/Sinti en Roumanie" (REF RM/174/96, 12 November 1996, presented by the Romanian delegation to the November 12, 1996 Organisation for Security and Co-operation in Europe (OSCE) Review Conference in Vienna.

[101] *European Roma Rights Center* interview with Ms Florentina Negruţiu, January 31, 2001, Bucharest.

[102] See Article 1 ECHR ("The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in section 1 of this Convention"); Article 2(1) ICCPR ("Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status").

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[103] In November 1996, during the Review Conference of the Organisation for Security and Cooperation in Europe (OSCE), in their paper "Aspects concrets de la situation des Roma/Sinti en Roumanie" (REF RM/174/96, November 12, 1996), the Romanian delegation stated that in connection with the episodes of community violence "12 cases have been pursued, 176 persons guilty of having exercised violence against Romani families have been brought to justice and 105 of them have been sentenced to up to 3.5 years [in prison]." During the conference the ***European Roma Rights Center*** questioned the accuracy of these figures, claiming that "in the specific case of Romania, community violence remains unpunished." Consequently, a second paper was distributed by the Romanian delegation, which stated that "...more than 100 persons were brought before the court and found responsible for various infringements of certain provisions of the Romanian law. Among them, 12 were sentenced to prison on the basis of the Romanian Penal Code." These figures are wholly inconsistent with the observations of the judicial proceedings by the *ERRC* and other interested non-governmental organisations, as well as being inconsistent with other official statements on the issue.

4. STATE OF IMPUNITY: VIOLENT ABUSES ON-GOING

In light of the climate of impunity created by a state apparatus visibly committed to undertaking no serious actions against perpetrators of crimes against Roma, it is not surprising that the *ERRC* continues to document an inordinate number of violent attacks against Roma. The majority of serious abuses reported concern incidents involving police officers.[104] Reported police abuse of Roma includes abusive police raids targeting Romani communities, torture and ill-treatment of Roma in police custody, racist intimidation and harassment of Romani victims of police abuse, and instances of unwarranted use of firearms causing injury and sometimes death. The *ERRC*'s monitoring of police attitudes towards Roma in Romania suggests that racial prejudice on the part of law enforcement authorities is a determining factor in the abusive treatment of Roma by the police.

Police raids on Roma in Romania have subjected large numbers of Roma to inhuman and degrading treatment over the past ten years.[105] *ERRC* research in Romania in 1996 revealed a pattern of systematic police raids conducted in Romani communities throughout the country.[106] Romanian law enforcement authorities with whom the *ERRC* spoke at that time stated that raids were a conscious strategy on their part, intended as a preventive measure to avoid further incidents of mob violence.[107] While many Roma with whom the

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[104] According to the United Nations Special Rapporteur on the Question of Torture "there is [...] some evidence that would support the view of many non-governmental organisations that the Roma are more likely to be the victim of police abuse than others", Rodley, Sir Nigel S., *Civil and Political Rights, including the Questions of Torture and Detention*, Report of the Special Rapporteur on the Question of Torture Submitted Pursuant to Commission on Human Rights Resolution 1999/32, Addendum: Visit by the Special Rapporteur to Romania, 23 November 1999, E/CN.4/2000/9/Add.3. *Human Rights Watch* has also noted that, "Roma are disproportionately the victims of police misconduct" (See Human Rights Watch, World Report 1999, Romania, available at: **http://www.hrw.org/hrw/worldreport99/europe/romania.html**).

[105] Abusive raids and destruction of property arguably violate Article 7 and Article 17 of the International Covenant on Civil and Political Rights (ICCPR), prohibiting cruel and degrading treatment or punishment and arbitrary and unlawful interference with privacy, family, and home, respectively. Similar protections are provided under Articles 3 and 8 of the European Convention on Human Rights.

[106] See European Roma Rights Center, *Sudden Rage at Dawn: Violence Against Roma in Romania, Op. cit.*, pp.20-52.

[107] *Ibid.*, p.22.

ERRC spoke stated that police practices had improved in recent years, the *ERRC* continues to be concerned at the high level of reported violent abuse of Roma; the continued targeting of entire communities for large scale invasive raids, during which officers often take advantage of search warrants for one or two individuals to subject entire communities to checks for personal identification documents[108]; and reports that police officers frequently insult the ethnic origins of Roma, indicating continued anti-Romani sentiment among the police rank-and-file.

For example, according to reports from the Bucharest-based non-governmental organisation *Romani CRISS*, on February 1, 2001, masked police officers, armed and with dogs, raided an early morning train from Tohanul Vechi to Braşov city. The officers rounded up Roma travelling on the 7:30 a.m. train, including women and young children, and used force to make them exit the train at Râşnov, one stop prior to their destination, which was Braşov itself. The police used dogs to intimidate the Roma and push them into waiting police cars. They reportedly beat those who refused to get into the cars. The Roma were taken to Zărneşti police station where all were fingerprinted, including the children. Some of those detained were fined for minor contraventions of the law. The same officers also raided the 9:45 a.m. train from Tohanul Vechi railway station to Braşov, preventing Roma waiting at the station from boarding the train and, in some instances, using police dogs to force them into waiting police vans. The Roma were fingerprinted, and received warnings not to continue their journey to Braşov as the police threatened to punish them if they did so, reportedly stating that they would burn down their homes. A child as young as 18 months was also fingerprinted.

On February 9, the Railway Transportation Police raided the same 7:30 early morning train to Braşov. Roma on the train were gathered into one compartment and held their until the train reached its final destination, Braşov, notwithstanding that a number of the Romani travellers wished to depart the train at the stops prior to the city. In the compartment, officers warned them to stop travelling to Braşov, "otherwise you will be killed and your houses will be burned." Upon arrival in Braşov, the Roma were taken to the Braşov Railway Transportation police station, fingerprinted, forced to make statements, and again threatened with remarks such as, "we'll set you on fire, you crows" and "you will have a worse time than during the Antonescu regime." In both raids, according to witnesses, only Roma were targeted. According to a written statement by the Railway Transportation Police of Braşov to *Romani CRISS*, dated March 2, 2001, approximately 100 persons were detained in total on February 1 and February 9. According to the same statement, the raids were legal since "the facts of begging and disturbing the major intersections in the city had been established." *Romani CRISS* filed criminal complaints in connection with the two raids. As this report went to press, the case was reportedly pending before the Braşov Military Prosecutor.

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[108] The issue of Roma missing identification documents, including but not limited to birth certificates, identity cards and marriage certificates, has been described in detail by human rights researcher Ina Zoon, who notes: "Recent studies report that approximately 5% of Roma living in Romania do not currently possess a birth certificate and approximately 4% do not have an identity card." (See Zoon, Ina, *Op. cit.*, p.36). According to one Romani activist with whom the *ERRC* spoke, nearly all those persons without valid documents are Roma (*European Roma Rights Center* interview with Mr Dimitru Ion Bidia, January 29, 2001, Bucharest).

In another case, on January 28, 2001, at just after 6 a.m., seven or eight police officers raided Romani houses in the village of Zizin, Braşov County.[109] According to victim and witness testimony, officers were looking for a number of men who had been involved in the collection of scrap iron the previous evening. Officers forcibly entered the home of Mr and Mrs Nicolae Roman looking for two of their sons. The Romans testified independently that they were asleep when four officers broke down the door of their home, three of whom were wearing black masks. Mr Nicolae Roman described these officers as looking "like ninjas".[110] The officers in masks were armed with automatic weapons and the other police officer was in standard uniform and carried a handgun. One of the officers opened fire in the Romans' house with cartridges that emitted a fine powder which experts state was probably salt. Mr Roman was struck twice by flying powder, in the chest and in the arm. *ERRC* examined eight spent cartridges which the Romans had collected from the floor of their home. Mrs Frusina Roman, forty-nine years old, stated that one of the masked officers pushed her to the floor and kicked her in the stomach, back and head, while questioning her about the whereabouts of her sons. The officers then found 21-year-old Mr Ciprian Roman and 24-year-old Mr Daniel Roman hiding in the house, and they detained them. Mr Roman told the *ERRC* that the same officers then sprayed a gas inside their house which caused numbness. One officer shouted at him, "Don't go out of the house, Gypsy, because I will shoot you," as they left the house.

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[109] It is illegal for the police to raid between 11 p.m. and 6 a.m., however, it is common for them to arrive only minutes after 6 a.m., so that they technically obey the law but are still likely to find everyone sleeping. In so doing, the letter of the law is respected, but not the spirit.

[110] *European Roma Rights Center* interview with Mr Nicolae Roman, January 28, 2001, Braşov.

Mr Roman followed the officers outside, out of concern for his sons, whom the police had detained. Upon emerging from the house, Mr Roman noted a further four officers in standard uniform outside. As he emerged from the house, officers opened fire at close range on Mr Roman, again using cartridges filled with powder. Mr Roman sustained a puncture wound in his arm and burns on his chest as a result of the shots fired. The officers involved in the raid also badly beat a number of the Roma they detained, before taking them away in police vans. Fifty-three-year-old Mrs Victoria Tereanu told the *ERRC* of the arrest of her son: "He [the police officer] was hitting him with his stick all over his body; they were beating him so badly. I screamed and begged him to stop beating my son, but another officer then hit me repeatedly on the head."[111] Mrs Roman testified that outside the house, the masked officers beat with the butts of their guns her sons and the other young men who had allegedly collected scrap iron. One of the officers also threatened that they would come back to the village later and burn down their houses "because they were Gypsies."

When the *ERRC* interviewed the witnesses six or seven hours after the raid, the effects of the beatings and the spray were clearly visible. All were in obvious pain and extremely distressed. As a result of the spray, victims' eyes were streaming profusely, they were coughing and one Romani man had lost his voice. Although Zizin is a mixed community of Roma and ethnic Romanians, only Roma had been targeted in the raid. One non-Romani neighbour told the *ERRC* that the police had come looking specifically for Roma, and that he had heard the police shouting racist epithets at his Romani neighbours.[112] Police detained seven young Romani men from the community, including Mr Ciprian Roman and Mr Daniel Roman. At the time of the *ERRC* visit, none of the men had yet been released and no one from the Zizin community had received any information about their well-being. On January 30, 2001, the *ERRC* raised the case of the Zizin raid with Colonel Titi Stoiemica, Chief Military Prosecutor of Brașov County. Colonel Stoiemica told the *ERRC:* "I have heard that the Gypsies might complain, but they haven't yet. If they want to complain they are meant to come the next day, but they have not come. I assume they have not come because they are guilty."[113]

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[111] *European Roma Rights Center* interview with Mrs Victoria Tereanu, January 28, 2001, Brașov.

[112] *European Roma Rights Center* interview with Mr Nicolae Glajar, January 28, 2001, Brașov.

[113] *European Roma Rights Center* interview with Colonel Titi Stoiemica, January 30, 2001, Brașov.

Another raid reportedly took place on the Zabrăuţi housing estate in Bucharest on January 12, 2001. Forty-six-year-old Mrs Amica Vasile told the *ERRC* that the police officers arrived in four or five large transporter vans and that they arrested approximately fifty Roma, including her husband. Most were arrested for minor administrative irregularities, primarily a lack of local residence permits or other documents.[114] Mrs Vasile's husband was fined 75,000 lei (approximately 3 euros) for illegally residing in Bucharest.[115] Mrs Vasile told the *ERRC* that the raids on their homes occur approximately once every six months. She additionally stated, "The police don't hit us when they come, but they use force to take us to the station. If you follow them to the police station, it is okay for you, but if not, they will beat you and say bad things." Forty-three-year-old Mrs Veronica Ailincai told the *ERRC* that although officers now knock on doors (as opposed to before, when they simply broke in violently), "If you don't open it quickly, they break it down." She also told the *ERRC* that officers used tear gas during the January 12, 2001 raid.[116] Mrs Ailincai told the *ERRC:* "It makes us all feel like criminals when they come. They call us 'Ciori' [blackbirds], which is very offensive." Mrs Ailincai also stated, "If you say that you are innocent when they try to take you away, then they beat you."

In another case, in the late afternoon of May 15, 2000, a large number of police officers raided a Romani neighbourhood in Sector 3 of Bucharest, according to the testimony of witnesses given to the *ERRC* two days later on May 17, 2000. During the raid, officers searched the house of a thirty-seven-year-old Romani man named Mr M.S., took his family into the backyard, and threatened to take them all to the police station. When Mr M.S. asked to see an arrest warrant, the police reportedly stated that they did not need one, "as this was a routine operation."[117] The police kept Ms L.S.'s identification documents, which had expired, and required her to come to the police station the next morning to receive a fine. A young Romani man visiting the family of Mr M.S. was, however, taken to the police station. The sole justification for his arrest was apparently that he lived in Vitan, a region of Bucharest where, according to the police officers, "bad things happen."[118] The man was released the following day. Several other Romani persons from the neighbourhood were reportedly also taken to the police station for "verification".[119] According to victim and witness testimony, no one was charged with any crime.

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[114] *European Roma Rights Center* interview with Mrs Amica Vasile, February 1, 2001, Bucharest.

[115] The protocol was issued by Officer Denea Vasile, Police Station Number 24 on January 12, 2001, pursuant to Article 29 of Law 105/1996.

[116] *European Roma Rights Center* interview with Mrs Veronica Ailincai, February 1, 2001, Bucharest.

[117] *European Roma Rights Center* interview with Mr M.S., May 17, 2000, Bucharest.

[118] *Ibid.*

The same sources told the *ERRC* that during a raid in the same neighbourhood of Bucharest several months earlier, the police had broken into the house of the same family, found R.S., a seventeen-year-old Romani boy, alone at home and ordered him to lie face-down on the floor, threatening to beat him. In another late night raid, in November 1999, police reportedly broke into the house of Mr M.S. through the back-door window, while his children were alone at home. The police called G.S., the fourteen-year-old daughter of the family, a "prostitute" and threatened to take her with them. When Mr M.S. went to the police station to inquire about the incident two days later, he was told that the police "did not know who these men were." Mr M.S. did not file a complaint against the police.

According to reports received by the *ERRC*, police officers in Romania often use excessive physical force against Roma, particularly while they are in police custody. The beating of Roma by police appears to be commonly motivated by anti-Romani racism; in most of the cases the *ERRC* has documented, the victims have reported that officers verbally abuse them, insulting their Romani ethnicity. In one incident documented by the *ERRC*, on May 6, 2000, in Buneşti, northwest of Braşov, two police officers in civilian clothes severely beat Mr K.M., a thirty-year-old Romani man from the nearby town of Rupea.[120] Mr K.M. had been involved in an argument and physical fight with his employer at his workplace, during which he suffered a severe head injury. Another worker called the police, who, upon arrival, allegedly made no attempt to investigate the incident. They first beat Mr K.M. and then took him to the local police station, where they continued hitting and kicking him all over his body, while verbally abusing him. After approximately half an hour of such treatment, Mr K.M. lost consciousness. A witness outside the police station at the time Mr K.M. was in detention reported hearing screams from the police station. The same witness saw two policemen take him, unconscious and covered with blood, outside. Mr K.M. was taken to a hospital, where he regained consciousness, but doctors there allegedly refused to treat him, claiming that he was drunk. Mr K.M. subsequently suffered from severe pain, difficulties in movement and speech, numbness in his left arm, and visible bruises all over his body. He was not able to obtain a medical certificate, however, because he is poor and was not able to pay for one. Despite his injuries, Mr K.M. did not file a complaint against the police officers responsible. On May 17, 2000, colleagues of the officers who beat Mr K.M. allegedly visited Mr K.M.'s workplace and warned Mr K.M. that, "he had escaped easily, as he could have received a worse punishment." According to several sources, one of the police officers involved in the beating had been implicated in previous cases of abuse of Roma.[121]

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[119] *Ibid.*; *European Roma Rights Center* interview with Ms L.S., May 17, 2000, Bucharest.

[120] *European Roma Rights Center* interview with Mr K.M., May 18, 2000, Rupea.

ERRC research has also established that security guards have also been responsible for recent acts of violence against Roma. On December 28, 2000, Mr Eduard Constantin and members of his extended family were selling jewellery and cigarettes outside the Bucurbor store in central Bucharest. Twenty-six-year-old Mr Constantin told the *ERRC* that approximately ten security guards who work for the private security firm *Bronec* came out of the store at about noon and attempted to confiscate the jewellery that his grandmother was selling. Mr Constantin told the *ERRC*, "They wanted money from us and said that if we didn't give it to them, they would take our goods."[122] One of the guards then reportedly began to hit him and a fight ensued when the family refused to give them money. Mr Constantin testified that a further five security guards then came out of the store. One of the security guards wounded Mr Renato Constantin, Eduard's cousin, on the head with a knife before Mr. Eduard Constantin managed to disarm him. A number of the guards went back inside the store and then re-emerged with what the family described as wooden bats. The store guards beat members of the Constantin family with the bats. When a non-Romani female passer-by attempted to intervene, the guards reportedly slapped and kicked her. During the beating, Mr Renato Constantin was taken inside the store. He told the *ERRC* that inside the store guards beat him further, and then took him to Police Station Number 8 in downtown Bucharest.

Twenty-two-year-old Mrs Gilda Munteanu, Mr Eduard Constantin's wife, went after Mr Constantin to the police station. According to her testimony to the *ERRC*, she had witnessed three of the store guards beat Mr Renato Constantin outside the police station. Mrs Munteanu told the *ERRC* that Mr Renato Constantin's hands had been handcuffed behind his back and that the guards were kicking him in the face and head as he lay on the ground.[123] She stated that she had begged the guards to stop and that in response one of them pushed her away, saying, "What do you want, Gypsy woman?" The guard then allegedly sprayed her with a chemical that induces temporary paralysis and causes the eyes to water, as well as causing breathing difficulties. When the store guards took Mr Renato Constantin inside the police station, a police officer called an ambulance and he was subsequently taken to hospital. Mr Eduard Constantin told the *ERRC* that both his brother, Mr Catalin Ioniţa, and his cousin, Mr Renato Constantin, had suffered fractured skulls in the attack and that he himself had sustained a broken arm and leg. All were treated in hospital for their injuries. He also told the *ERRC* that none of the men had filed a complaint with the police because they fear both the police and the security guards. Mr Eduard Constantin stated that he believed the police would not take action against the security firm because in his opinion they work closely together. The police have, however, reportedly interviewed Mr Eduard Constantin since the event and informed him that the incident had been filmed from a nearby apartment. There has been no indication, however, that police have pressed charges against the security guards, the firm or the store.

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[121] *European Roma Rights Center* interview with Mr D.M., May 18, 2000, Rupea; *European Roma Rights Center* interview with Ms N.M., May 18, 2000, Rupea.

[122] *European Roma Rights Center* interview with Mr Eduard Constantin, January 27, 2001, Bucharest.

[123] *European Roma Rights Center* interview with Mrs Gilda Munteanu, January 27, 2001, Bucharest.

Police regularly stop and harass Roma. In one case reported to the *ERRC*, Romani lawyer Daniel Vasile stated that he had stopped with a friend at a petrol station in Bucharest in November 2000 when he was stopped by two police officers who were filling up their patrol car.[124] The officers asked to see his identity card, which he did not have with him at that moment. Mr Vasile informed the officers that he was a lawyer, to which one of the officers responded, "Oh Gypsy, you say that you're a lawyer? Let's go to the police station to check."[125] The police officers evidently could not believe that a Romani man could be a lawyer and assumed instead that he was making fun of them. Mr Vasile and his companion were taken to Police Station Number 14 in Bucharest's Sector 4, where a number of officers insulted them and called them "Gypsy liars". It was not until Mr Vasile managed to contact a senior officer at the police station with whom he had previously dealt in the course of his work, that he and his companion were released. Despite a senior officer ordering their release, a number of the junior officers persisted in calling him a "liar" and asserted that he was only being released because he had paid the commander money.[126]

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[124] *European Roma Rights Center* interview with Mr Daniel Vasile, January 31, 2001, Bucharest.

[125] It is legal to ask a citizen not carrying their identity papers to come to a police station where their identity can be verified. However, Mr Vasile told the *ERRC* that, in his experience, non-Roma are very rarely requested to make this journey, while for Roma it is very common.

[126] *European Roma Rights Center* interview with Mr Daniel Vasile, January 31, 2001, Bucharest.

ERRC field research also revealed that police in Romania often harass Roma who sell goods without a license, extort bribes from Roma, or confiscate the possessions of Romani vendors. In early April 2000, two police officers detained Ms O.P., a thirty-year-old Romani woman, and her sister-in-law while they were selling jewellery in the Poşta Vitan region of Bucharest without the required permission. According to the testimony Ms O.P. provided to the *ERRC* on May 13, 2000, the police officers took the women to the police car, saying that they were taking them to the police station. During the drive, one of the police officers reportedly subjected them to continuous threats of detention and fines, and told the women that they could "do anything they wanted to them."[127] The terrified women cried and begged to be released. They apparently offered to pay to be released, but the police did not consider the sum offered high enough. The officers then brought the women back to the place near where they had picked them up, and kept one woman hostage while instructing the other to go and bring more money. In the end, the women reportedly gave the police officers 350,000 Romanian lei (approximately 20 euros), and all of the jewellery they had been trying to sell, worth around one million lei (approximately 50 euros). The police officers reportedly insulted the women and threatened to come to their homes and kill them if they told anyone about the incident.[128] Similar cases of police abuse of Romani street vendors have been reported recently to the *ERRC* in a number of localities in Romania. The *ERRC* was also informed that in some cases in Bucharest the police beat Romani market vendors.

Roma have also been killed by police officers during shooting incidents.[129] Statements by Romanian law enforcement officials indicate that shooting at fleeing suspects is not considered improper police practice. For example, Braşov County Chief Military Prosecutor

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[127] *European Roma Rights Center* interview with Ms O.P., May 13, 2000, Bucharest.

[128] *Ibid.*

[129] Romanian legal provisions regulating the use of firearms by police officers are unsatisfactory in their silence on the subject of lethal force. According to the provisions of Article 19(d) of the Law on the Organisation and Functioning of the Romanian Police (number 26/1994) an officer is permitted to use firearms "to apprehend a suspect who is caught in the act and attempts to escape without obeying an order to stay at the scene of the crime." Romanian law has to date not been amended to incorporate the provisions of the United Nations Basic Principles for the Use of Force and Firearms by Law Enforcement Officials, which stipulate that the intentional lethal use of firearms by law-enforcement officials may only be undertaken when strictly unavoidable in order to protect life (see UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials, adopted by the 8th UN Congress on the Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August-7 September 1990).

Colonel Titi Stoiemica told the *ERRC:* "In a case in Sibiu last year, two Roma were caught stealing corn; they were arrested but ran away on the way to the police station, so the police officer shot them in the leg. [...] Police officers are most likely to draw their guns when people are trying to escape."[130] There have been numerous reports on arbitrary use of firearms by Romanian police officers against Roma.[131] Although the racial motive in such shootings is not immediately demonstrable, in many cases racist anti-Romani speech suggests racial animus. The alacrity with which police officers resort to the use of the firearm where Roma are at issue and the fact that shootings often result in death give rise to the suspicion that officers may be prone to regarding the use of lethal force against Roma with less gravity than non-Roma. High rates of shooting deaths of Roma by police officers also hints that police officers face Roma from across a divide of fear and ignorance sufficient to inspire an informal ethic of "shoot first and ask questions later."

In one incident, on May 19, 2000, Mr Mugurel Soare, a young Romani man from Bucharest, was shot in the head by Romanian police officers in Bucharest. According to a police statement provided to the daily newspaper *România Liberă* on May 22, three police officers had seen a man running in the street, pursued by two men with knives. According to the account provided in the newspaper article, the officers stopped all of the men and asked for their identity cards, at which point one of the men, Mr Soare, stabbed one of the police officers twice. According to the *România Liberă* article, the officer responded by opening fire, shooting Mr Soare in the head. The daily newspaper *Adevărul*, however, reported a different version of the May 19, 2000 incident, based on the testimony of Mr Vipan Soare, brother of the victim and witness to the shooting.[132] According to Mr Vipan Soare, his brother did not have a knife when he was stopped by the police. Rather, they were walking in the city when a man whom they knew and with whom they had argued earlier approached them. This man was accompanied by three men in civilian clothes, whom Mr Vipan Soare stated were police in civilian clothes. One of these men shot Mr Mugurel Soare without warning.

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[130] *European Roma Rights Center* interview with Braşov County Chief Military Prosecutor Colonel Titi Stoiemica, January 30, 2001, Braşov.

[131] See, for example, Amnesty International, "Romania: Excessive Use of Firearms by Law Enforcement Officials and the Need for Legal Reform", August 9, 2000, Report EUR 39/03/00; European Roma Rights Center, ***Sudden Rage at Dawn: Violence against Roma in Romania, Op. cit.***, pp.45-52. In its concluding observations on Romania the United Nations Human Rights Committee stated: "The Committee is disturbed at continued incidents involving the use of firearms by the police…The use of firearms by the police should be closely regulated in order to prevent violations of the right to life and personal security." United Nations Human Rights Committee, "Concluding Observations of the Human Rights Committee: Romania", 66th Session, 28 July 1999, CCPR/C/79/Add.11.

[132] During a subsequent investigation by the *Romanian Helsinki Committee*, witnesses of the shooting stated that Mr Mugurel Soare, who was unarmed, was shot at point blank distance in the back of the head.

As a result of the injuries he sustained, Mr Soare was in coma for five days, underwent two surgical operations and spent more than two months in hospital. As of June 22, 2001, Mr Soare was only able to move his right arm slightly, and was fully incapable of speech. He also required further surgery, which he was not able to afford. The *Romanian Helsinki Committee* reportedly filed a complaint with the Military Prosecutor's Office of Bucharest in connection with the case on June 6, 2000. Having received no response to the complaint, the organisation sent further inquiries to the same office in October 2000 and May 2001. At the time this report went to press, the *Romanian Helsinki Committee* had received no response from the Military Prosecutor's Office to either the complaint or the two requests for information.

On May 22, 2000, just three days after the shooting of Mr Mugurel Soare, the Bucharest police fatally shot another Romani man, Mr Petre Letea, and wounded Mr Marian Piloş, a non-Romani man. Mr Marian Piloş and another man were allegedly trying to break down the door of an apartment in the vicinity of Râmnicu Vâlcea Street in Bucharest, when a police officer interrupted them. Both men fled. According to reports, Mr Marian Piloş got into a car driven by Mr Petre Letea and the police officer fired six shots in the direction of the car. Four bullets went through the windscreen, one of which struck Mr Letea in the head. He later died in hospital. Mr Piloş was lightly wounded and after medical treatment was taken into police custody.[133]

Arbitrary shooting by police officers also resulted in the death of Mr Radu Marian, a 40-year-old Romani man. On October 27, 1999, police officers opened fire on suspected cigarette smugglers in Bucharest.[134] Mr Marian was a member of a group of sixteen cigarette smugglers who were ambushed by a joint police force of Bucharest and Ministry of Interior special forces in an action that began at 4:00 a.m. at the railroad in the Giuleşti district of Bucharest. The police waited for the smugglers to collect cigarette boxes thrown from a passing train, and then came out of hiding and ordered the smugglers to stop. Most of the group obeyed, but three men, including Mr Marian, began to run into neighbouring streets. Sergeant Major L.B. reportedly fired four shots in the direction of Mr Marian. The fourth shot hit Mr Marian in the back of the head, and he died on the spot. The other men who attempted to flee also sustained gunshot wounds. The Bucharest office of the Military Police reportedly opened an investigation into the case. The Romanian daily newspaper *Ziua* reported on October 28, 1999, that the investigation had established that the police officer had stopped and aimed the fatal shot at Mr Radu Marian, excluding the possibility that the shot was accidental.[135] The *ERRC* is unaware of any prosecutions in connection with the case.

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[133] See Amnesty International, "Romania: Excessive Use of Firearms by Law Enforcement Officials and the Need for Legal Reform", *Op. cit.*

[134] *Zina*, October 28, 1999.

Recent shootings by security guards have featured explicitly anti-Romani speech. On January 14, 2001, for example, 33-year-old Mr Dan Parvu was shot in the leg by a member of the "Guardia" in Cuciulata, about 65 kilometres north of the town of Braşov. ("Guardia" are private security guards, but are armed and subject to the same law on the use of arms as the police, although they lack the training undertaken by members of the police force.) Mr Parvu, his cousin and his fifteen-year-old son were returning home from collecting iron ore from the outskirts of their village when they were approached by two members of the Guardia employed by a local iron ore factory. Mr Parvu told the *ERRC* that "They swore at us and called us 'Gypsy' and said bad things about our mothers. They started to kick and hit us."[136] Mr Parvu's cousin apparently ran away, whereupon one of the Guardia drew his gun and fired after him. Mr Parvu was shot when his son also ran; the same Guardia was taking aim to fire after the boy and, from where Mr Parvu had been beaten to the ground, he raised his right leg into the air to block the shot and protect his son. The bullet was at such close range that it passed directly through his thigh. The sound of shots drew members of their village and as they approached the Guardia threw stones at them, Mr Parvu's wife was hit by several stones as she attempted to stem her husband's bleeding with her headscarf. Mr Parvu was hospitalised for 11 days as a result of the injury to his leg and was still in considerable pain at the time of the *ERRC* visit on January 28, 2001. When Mr Parvu returned home, a letter was waiting for him from the Prosecutor's Office in Braşov. The letter said he was required to attend an interview on January 29, 2001. In a local newspaper, it was suggested that when Mr Parvu's wound healed he would be arrested for the theft of the iron ore, with no mention of any investigation of the actions of the Guardia. Mr Parvu told the *ERRC* that he was too frightened to file a complaint in connection with the case.[137]

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[135] Such use of lethal force is unlikely to meet the criteria of "absolute necessity" laid down by the European Court of Human Rights in relation to Article 2 of the Convention (*McCann and Others v U.K.* A.324 (1995)). Amnesty International has commented that, "Amnesty International is concerned that the use of firearms by police officers in disputed circumstances is a long-standing problem which the Romanian authorities have consistently failed effectively to address and that investigations into such incidents, if they are launched at all, are not thorough and impartial." (see Amnesty International, "Romania: new reports of unlawful use of firearms by law enforcement officials", 1 October 1998, EUR 39/30/98).

[136] *European Roma Rights Center* interview with Mr Dan Parvu, January 28, 2001, Braşov.

A great number of the human rights violations perpetrated by the Romanian police against Roma are never reported, due to fear of the police on the part of Roma, as well as scepticism that their claims will be heard fairly. In an interview on May 9, 2000, Mr Anghel Constantin of the Bucharest-based non-governmental organisation *Romani CRISS* told the *ERRC*: "Roma themselves tolerate abuses in the hope of more understanding in the future. The abuses exist but they are not reported."[138] In an interview on May 18, 2000, Brigadier General Lazăr Cârjan, Director of the Directorate of Judicial Police *(Direcţia Poliţei Judiciare)* within the General Police Inspectorate of the Ministry of Interior, told the *ERRC* that the Inspectorate did not receive any complaints from Roma about police abuse in 1999.[139]

Nevertheless, due primarily to the efforts of Romani activists and human rights organisations, abuses of Roma do come to light, and in its reports on Romania's progress towards accession of November 1998, October 1999, and November 2000 the European Commission repeatedly noted the prevalence of police violence, predominantly affecting Roma: "[c]ases of inhuman and degrading treatment by the police especially against Roma [...] continue to be reported by several organisations. Judicial control over the activities of the police needs to be strengthened."[140] More recently: "cases of inhuman and degrading treatment by the police continue to be reported by the human rights organisations."[141]

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[137] *Ibid.*

[138] *European Roma Rights Center* interview with Mr Anghel Constantin, May 9, 2000, Bucharest.

[139] *European Roma Rights Center* interview with Brigadier General Lazăr Cârjan, May 18, 2000, Bucharest.

[140] See European Commission, *Romania: Regular Report from the Commission on the Progress towards Accession*, November 4, 1998, available on the Internet at: **http://europa.eu.int/comm/enlargement/dwn/report_11_98/en/en/romania_en.doc.**

[141] See European Commission, *Romania: Regular Report from the Commission on the Progress towards Accession*, November 8, 2000, available on the Internet at: **http://europa.eu.int/comm/enlargement/dwn/report_11_00/pdf/en/ro_en.pdf**.

During its most recent examination of Romania in July 1999, the United Nations Human Rights Committee expressed concern about, *inter alia*, "police brutality against members of the Roma minority", and "called upon the Government of Romania to do more to end discrimination against Roma."[142] None of the independent organisations working on police brutality and Roma rights issues have to date noted any significant improvement in this area, however. Indeed, Romanian authorities have to date failed to take heed of recommendations by international and non-governmental organisations concerning legal and institutional reforms that might significantly increase respect for human rights by the law enforcement bodies.[143]

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The climate of impunity pervading the Romanian criminal justice system is not hermetically sealed from the rest of the Romanian social world. Impunity – an unwritten covenant that actions pertaining to Roma are not governed by the same rules as those for non-Roma – extends to nearly all spheres of social life in Romania. In the next sections, the *ERRC* elaborates concerns about abuses of Roma rights in the areas of political rights, child homelessness and institutionalisation, as well as discrimination against Roma in the fields of housing, health care, employment, access to goods and services, and education. Linking all of these issues, to a greater or lesser extent, is a predominant ethos that it is possible to violate the rights of Roma because few negative consequences will arise from abusive action; individual perpetrators are shielded by a comprehensive agreement that Roma live beyond the pale of equal treatment.

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[142] See UN Press Releases HR/CT/99/17 of 20 July, 1999 and HR/CT/99/19 of 21 July, 1999.

[143] Amnesty International has urged the Romanian government to "establish an independent commission empowered to conduct a full and impartial inquiry into all factors which facilitate torture and ill-treatment of detainees by law-enforcement officers and to recommend preventive measures; to investigate promptly, impartially and thoroughly all allegations of police ill-treatment and to make public the findings of such investigations as soon as the reports are completed; to ensure that the prosecutors exercise their legal competence to initiate investigations ex officio of all credible reports of torture or ill-treatment or whenever a person brought before them alleges torture or ill-treatment" (see Amnesty International, *"Romania: A Summary of Human Rights Concerns"*, March 1998, on the Internet at: **http://web.amnesty.org/ai.nsf/Index/EUR390061998?OpenDocument&of=COUNTRIES\ROMANIA**).

5. ABUSE OF THE POLITICAL RIGHTS OF ROMA IN ROMANIA

As a result of not having valid identification papers, many Roma are denied the right to vote and therefore the right to effective participation in a democratic society.[144] In addition, violations of Romani voting rights and manipulation of Roma during elections have been reported in both local elections in May and June 2000, and national elections in November 2000 in Romania.

According to some estimates, approximately 4% of Roma in Romania do not have valid identity cards.[145] Since it is necessary to show identity cards while voting in Romania, Roma without identity documents are effectively precluded from participation in choosing their representatives. One Romani activist estimated that a lack of documents precluded 100,000-150,000 Roma in Romania from voting during the elections held in 2000.[146]

Additionally, active intervention by authorities may have caused violations of the political rights of Roma during the 2000 elections. According to a daily newspaper, for example, on the day of the national parliamentary and presidential elections on November 26, 2000, around 6 a.m., the police detained Mr Carol Jurisnicz, a Romani leader in Maramureş County and also an active member of the National Liberal Party *(Partidul Naţional-Liberal – PNL)*, without a warrant.[147] The police took Mr Jurisnicz to the police station, where he was held, without being interrogated, until 3:45 p.m. the same day. During the time of Mr Jurisnicz's detention, the police searched his house – reportedly for drugs – without finding anything incriminating.

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[144] Article 25 of the ICCPR states: "Every citizen shall have the right and the opportunity [...] without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) to have access, on general terms of equality, to public service in his country."

[145] See Zoon, Ina, *Op. cit.*, p.36.

[146] *European Roma Rights Center* interview with Mr Dimitru Ion Bidia, January 29, 2001, Bucharest.

[147] *Transilvania Jurnal*, November 27, 2000.

According to the *Roma Students Association*, based in Bucharest, in several counties of Romania Romani candidates who wanted to run for public office during the 2000 elections were asked by local electoral bodies for numerous supporting documents, even though the election law requires only signature support.[148] The association protested this treatment with the Central Electoral Commission in Bucharest, but reportedly received no response.[149]

In the Braşov region, during the recent electoral campaign in the run-up to the May and June 2000 local elections, representatives of the local authorities reportedly exercised pressure on local Romani communities: mayors and other representatives of the local authorities threatened that if Roma joined Romani political organisations, "they would lose their workplaces and social support."[150]

In Ocolna, a village in southwestern Romania near Craiova, the *European Roma Rights Center* was told that the local politicians bribe rich Romani families in order to get their votes and make them influence the more vulnerable members of the community,[151] and this manner of pressure on smaller Romani communities is reportedly evident all over Romania.[152] Often, politicians buy the votes of impoverished Roma. According to Mr Dimitru Ion Bidia, a Romani activist in Bucharest, a number of parties came to Romani communities in Bucharest bringing beer, bread and rice in efforts to influence Romani voters, both prior to the local elections in June 2000 and the November elections.[153] Also, in the village of Săcele, near Braşov, the same mayor who had reportedly threatened a Romani settlement with relocation to an area at risk of flooding, came to the village with food and drinks in order to gain Roma votes for the then forthcoming local elections.[154] "During election campaigns, non-Romani politicians come to Roma settlements with beer and promises – and later nothing happens," a Romani activist from Braşov told the *ERRC*.[155]

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[148] See Romanian Law on Elections, 68/1992, Article 33.

[149] *European Roma Rights Center* interview with Mr Emilian Niculae, May 9, 2000, Bucharest.

[150] *European Roma Rights Center* interview with Mr Tibor Gabor, May 16, 2000, Braşov.

[151] *European Roma Rights Center* interview with Mr Marian Căliu, May 12, 2000, Ocolna.

[152] *European Roma Rights Center* interview with Mr Gabriel Andreescu, May 17, 2000, Bucharest.

[153] *European Roma Rights Center* interview with Mr Dimitru Ion Bidia, January 29, 2001, Bucharest.

[154] *European Roma Rights Center* interview with Mr Tibor Gabor, May 16, 2000, Braşov.

The fragmentary insights into abuses during recent elections presented above suggest that attempts to manipulate Roma, as well as other efforts to deny effective political participation to Roma, are widespread.

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[155] *European Roma Rights Center* interview with Mr Lucian Gheorghe, May 16, 2000, Braşov.

6. CHILD HOMELESSNESS AND INSTITUTIONALISATION

Children's rights are not fully respected in Romania, according to the Romanian Ombudsman.[156] According to *ERRC* research as well as reports by other organisations, Romani children are particularly vulnerable to homelessness, as well as to removal from their families and placement in squalid state-run institutions.

6.1. Street Children

According to a 1999 study by *Save the Children Romania* and UNICEF, the total number of street children – children living and/or working in the streets – in Romania is estimated to be over 2000.[157] According to reports, sixty percent of street children live in Bucharest, while most others live in Constanţa, Timişoara, Iaşi and other big cities.

The presence of Romani children living in the streets is visible, though precise numbers are not available, and estimates vary greatly. In Bucharest, local experts placed the number of Romani street children to be at most 40% of the total number of street children in 2000.[158] However, at the same time in Târgu Mureş, the observations of the *ERRC* were that 90% of children living in the city's streets were Romani. In all of the cases, the figures indicate obvious overrepresentation of Romani children in this group in comparison with the percentage of Roma in the total population of Romania.

According to reports, many – though not all – street children in Romania live in the open, under grave sanitary conditions, suffer from malnutrition and lack of medical care, and are often exposed to drug abuse and violence. Many beg for a living. A common complaint of street children relates to police abuse; according to the *Save the Children Romania* study, 42.9% of street children have been threatened and/or attacked by the police on at least one occasion.[159]

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[156] *BBC World Service*, "Children's Rights abused in Romania", October 18, 2000.

[157] See Save the Children Romania and United Nations Children's Fund (UNICEF), *Studiu Naţional privind situaţia copiilor străzii 1998-1999*, Bucharest: 1999, p.49.

[158] *European Roma Rights Center* interview with Mr Virgil Biţu, May 10, 2000, Bucharest; as well as *European Roma Rights Center* interview with Mr George Roman, June 26, 2000, Bucharest.

In 1994, in its Concluding Observations on Romania, the UN Committee on the Rights of the Child expressed its concern at "the occurrence of child abuse and neglect within the family and the disruption of family values which in some cases lead to children being abandoned and running away. [...] The growing number of children living and/or working in the street is a matter of deep concern."[160] Years later, the situation of street children in Romania remains precarious, and there continues to be a lack of adequate social services, a lack of access to formal and informal education, and a dearth of programmes addressing domestic violence.[161] Despite the government's obligations,[162] this issue is currently addressed primarily by several non-governmental organisations.

6.2. Institutionalising Romani Children

In 1997, as many as 98,872 children in Romania lived in children's institutions – infants' and children's homes, and homes for the disabled.[163] In the year 2000, the numbers of children placed in institutions were estimated to be at roughly the same level. There are around twenty children's institutions in Bucharest alone.[164] A UNICEF report attributes high rates of children in institutions to "no or few social safety nets."[165]

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[159] See Save the Children Romania and UNICEF, *Op. cit.*, p.74. The same study quotes 62.5% of homeless young adults complaining of police brutality.

[160] See Committee on the Rights of the Child, *Consideration of Reports Submitted by State Parties under Article 44 of the Convention. Concluding Observations of the Committee on the Rights of the Child: Romania*, Geneva, 1994.

[161] See UNICEF and Government of Romania, *Romania Master Plan of Operations 2000-2004*, Bucharest: 1999, p.49.

[162] According to Article 45 of the Romanian Constitution of 1991, "Children and the young shall enjoy special protection and assistance in the pursuit of their rights." Additionally, the Convention on the Rights of the Child (CRC) states, at Article 3: "(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. (2) States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents , legal guardians, or other individuals legally responsible for him or her, and to this end, shall take all appropriate legislative and administrative measures." Romania ratified the CRC on September 28, 1990.

[163] See UNDP, *National Human Development Report: Romania 1999*, Bucharest: 1999, p.128.

Most institutionalised children – an estimated 90% of such children – have living parents.[166] Officially there are no statistics on the ethnicity of children taken into state care. A UNICEF official told the *ERRC* that up to 20% of children in Romanian institutions in 2000 were Romani,[167] a high figure given that Roma comprise probably only 5-8% of the total population of Romania. Some areas clearly have a higher number of Romani children living in state institutions: in the Târgu Mureş region in the year 2000, non-governmental organisations state that more than 90% of institutionalised children are Romani. A representative of *Save the Children Romania* similarly told the *ERRC* in January 2001 that the number of Romani children in institutions is probably higher than 20%, but that many of these children do not state that they are Romani when asked.[168] Previously, in 1993, Professor Ian Hancock put the percentage of Romani children in institutions as high as 80% in some regions of Romania.[169] One particularly striking aspect of allegations of over-representation of Romani children in children's homes in Romania is that they take place in an atmosphere of popular myth to the contrary; it is widely believed by non-Roma in Romania that Roma have many children in order to receive more social benefits and that this interest precludes them from consenting to the institutionalisation of their children. Also, many social workers and other experts in Romania told the *ERRC* that Roma have historically been noteworthy for refusing to institutionalise their children, even when families had sunk so deep into poverty that children were regularly left without adequate food. According to these experts, the high numbers of Romani children in institutions indicated an alarming crisis in the traditionally strong Romani family.[170] Minimum figures of 20% representation of Romani children in state institutions are serious enough to warrant engaged state action in the near term to investigate causes of overrepresentation and propose policies to address the problem.

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[164] *European Roma Rights Center* interview with a UNICEF official who wanted to remain anonymous, May 10, 2000, Bucharest.

[165] See UNICEF and Government of Romania, *Romania Master Plan of Operations 2000-2004*, Bucharest, 1999, p.31.

[166] *European Roma Rights Center* interview with a UNICEF official who wanted to remain anonymous, May 10, 2000, Bucharest.

[167] *Ibid.*

[168] *European Roma Rights Center* interview with Miralena Mamina, January 31, 2001, Bucharest.

[169] See Hancock, Ian, "Anti-Gypsyism in the New Europe", *Roma 38/39*, 1993, pp.5-29.

[170] See, for example, *European Roma Rights Center* interview with Professor Gheorghe Sarău, Inspector of Roma and the Romani Language, the Ministry of Education, February 1, 2001, Bucharest.

The living conditions in most children's homes in Romania are generally considered deplorable.[171] The Romanian government has been attempting general reform in child protection, but with little obvious improvement: In 1995, it developed a National Plan of Action with regard to this issue, and in March 1997, it introduced changes including the restructuring of child care institutions.[172] Later, previously centralised child care within the mandate of, *inter alia,* the Department for Child Protection, the Ministry of Education and Social Protection, and individual municipalities, was shifted in 2000 to the responsibility of the National Agency for the Protection of Chlldren's Rights (now called the National Authority for the Protection of Children's Rights). However, this transition did not run smoothly: the process was reportedly very slow, involved a delay in funding local institutions, and lacked co-ordination among relevant bodies. This resulted in many complaints and attracted much international criticism. Despite changes, the situation remained grave; consequently, in July 2000, senior officials of the European Union required the Romanian government to improve the situation of children's institutions as a key condition of the country's accession to the EU.[173]

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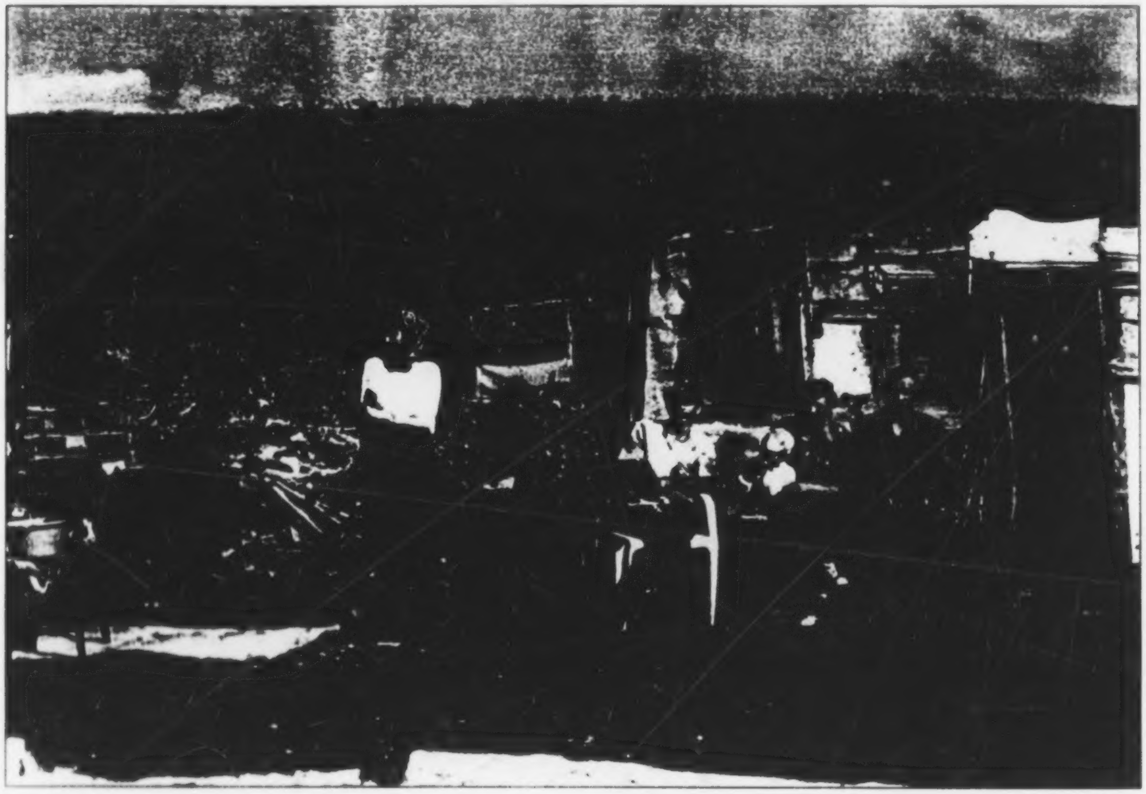
[171] See, for example, Reuters, "EU Urges Romania to Ease Plight of Abandoned", July 15, 2000.

[172] See Romanian government's "Ordonanţei de Urgenţă nr. 26 privind protecţia copilului aflat în dificultate", June 1997.

[173] The European Commission notes, in its regular report on Romania's progress towards accession to the European Union, "a general need to integrate child care policies and social welfare systems in such a way as to assist families, prevent abandonment and address the problem of street children in major cities." (see European Commission, *Romania: Regular Report from the Commission on the Progress towards Accession*, November 8, 2000). The report is available on the Internet at: **http://europa.eu.int/comm/enlargement/dwn/report_11_00/pdf/ro_en.pdf**.

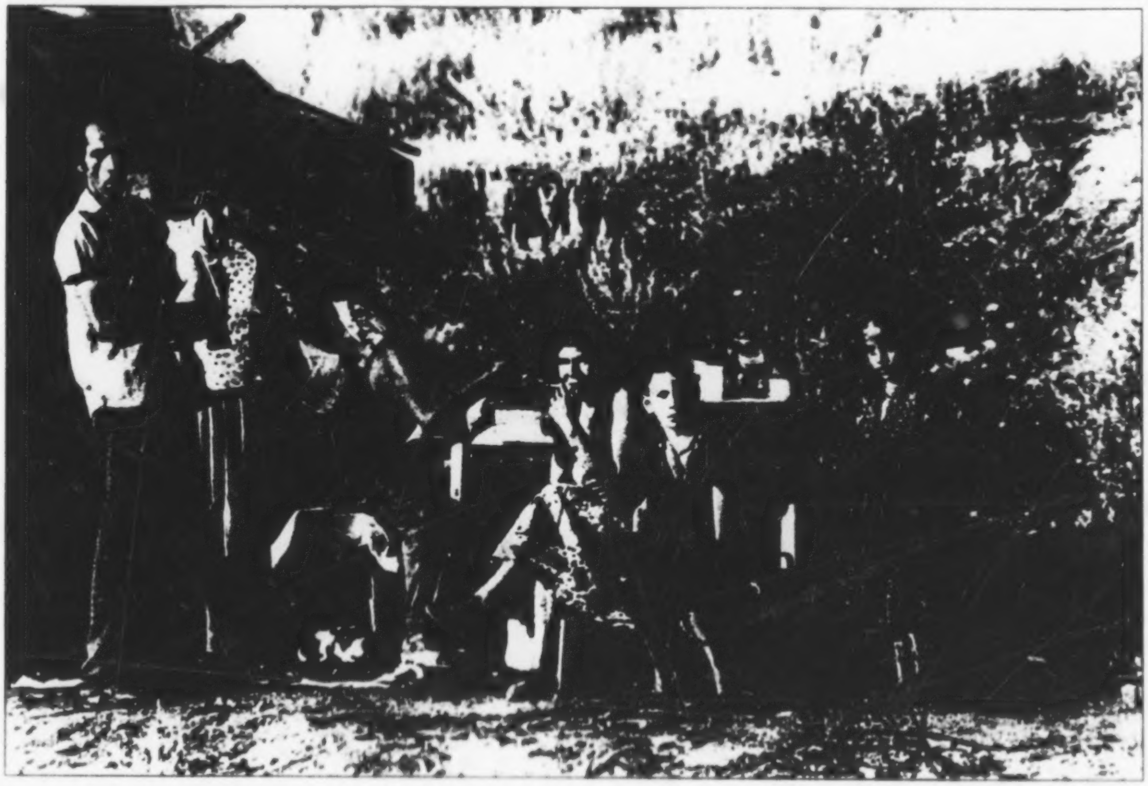
House destroyed during the Hădăreni pogrom (see pp. 20-27).

PHOTO: ISTVÁN HALLER



Roma in the Pata-Rât settlement, outside the sity of Cluj.

PHOTO: GÁBOR SARUDI



Roma in the Pata-Rât settlement, outside the sity of Cluj.

PHOTO: GÁBOR SARUDI

House inhabited by Roma in the city of Târgu-Mureş, 1997.

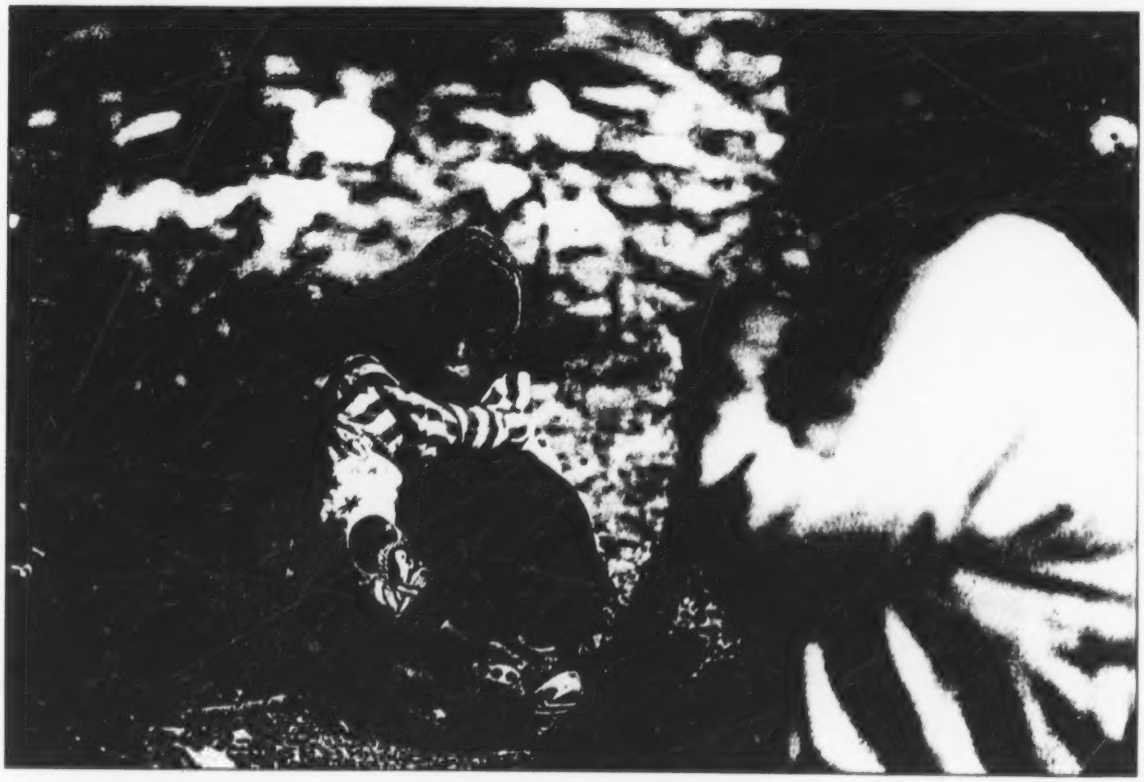
PHOTO: ERRC

PHOTO: ERRC/MONA RAI

The communal bathroom in a building inhabited by Roma in the IAS, a former state-owned farm, outside the town of Mangalia, on the Black Sea coast. At the time of the *ERRC* visit in May 2000, the one-story building housing five families was provided with running water via this tap only, and only for one or two hours daily.

PHOTO: ERRC/MONA RAI

Ms Cecilia Mihai, IAS settlement, outside Mangalia. At the time of the *ERRC* visit in May 2001, Ms Mihai was the only breadwinner of her family, earning the lei-equivalent of 1.7 euro per day for manual and agricultural work in summer. In winter, she and her family live on state child support payments. At the time of the *ERRC* visit they were unable to pay rent, and lived under threat of eviction from the one-room flat in which they were living.



Roma in a settlement in Baia Mare.

PHOTO: JULIE DENESHA

Roma in a settlement in Baia Mare.

PHOTO: JULIE DENESHA

Children in the Zabrăuţi housing estate, Bucharest, January 2001.

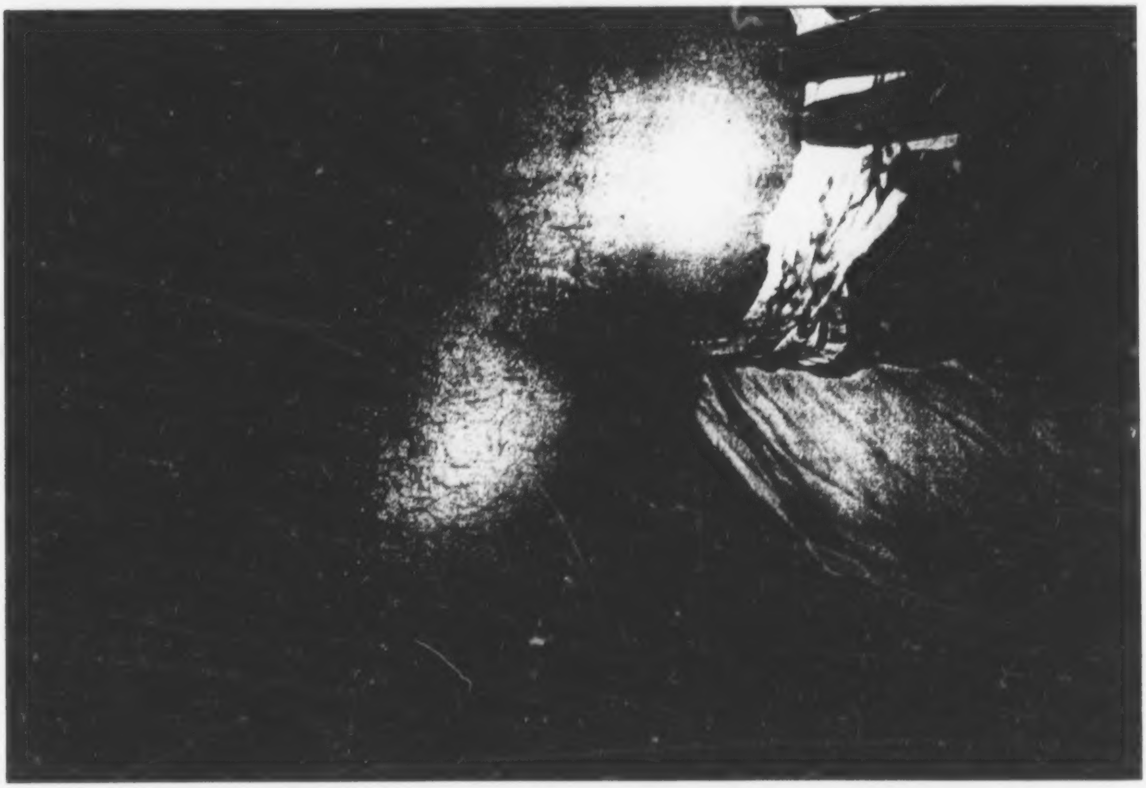
PHOTO: ERRC

Romani slum, Bucharest, 2001.

PHOTO: ERRC

Mr Nicolae Roman, whose house in the village of Zizin, Braşov County, was raided by police on January 28, 2001. During the raid, officers opened fire using cartridges emitting a fine powder, which experts state was probably salt. Mr Roman was struck in the chest and the arm by the powder, and had visible burns when the *ERRC* documented the case later the same day. For more details on the case, see pp. 55-56.

PHOTO: *ERRC*



Mr Dan Parvu's calf with a wound caused by a bullet shot by a security guard in Cuciulata, north of Braşov, Romania, on January 14, 2001.

PHOTO: *ERRC*

7. DISCRIMINATION AGAINST ROMA

The Romanian government engaged in two encouraging moves in late 2000. In August 2000, the government introduced an Ordinance on Preventing and Punishing All Forms of Discrimination.[174] Secondly, on November 1, 2000, Romania signed Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which sets forth a general prohibition of discrimination.[175] The Ordinance on Preventing and Punishing All Forms of Discrimination bans discrimination by public authorities, legal persons of private law and natural persons on the grounds of race, nationality, ethnic origin, religion, language, gender, or sexual orientation. The Ordinance states, at Article 1(2):

> The principle of equality among citizens, the elimination of all privilege and discrimination shall be guaranteed, in particular with regard to the exercise of the following rights:
> a) the right to equal treatment before courts and any other jurisdictional bodies;
> b) the right to personal security and to be granted state protection against violence and mistreatment perpetrated by any individual, group or institution;
> c) political rights, namely electoral rights, the right to take part in public life and the right to access to public positions;
> d) other civil rights, in particular:
>   i) the right to freedom of movement and of choosing one's residence;
>   ii) the right to leave and return to one's country;
>   iii) the right to obtain the Romanian citizenship;
>   iv) the right to marry and to choose one's partner;

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[174] Ordinance No 137/2000 (hereinafter "Ordinance"). The Ordinance entered into force 60 days following its publication in the Official Gazette on August 31, 2000. The text of the Ordinance quoted in this report and included in full as an Appendix is an official translation, available in electronic form on the Internet at: **http://www.riga.lv/minelres/NationalLegislation/Romania/Romania_antidiscrim_English.htm**.

[175] Protocol No. 12 to the ECHR was opened for signature on November 4, 2000. As of June 21, 2001, it had been signed by 27 states and been ratified by one state – Georgia. It will come into force after formal ratification by 10 states. The main substantive provisions of the Protocol, contained in Article 1, read: "The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

  - v) the right to property;
  - vi) the right to inheritance;
  - vii) the right to freedom of thought, conscience and religion;
  - viii) the right to freedom of expression and opinion;
  - ix) the right to freedom of peaceful meeting and association;
- e) economic, social and cultural rights, in particular:
  - i) the right to work, to choose freely one's occupation, to fair and satisfactory working conditions, to protection against unemployment, to equal pay for equal work, to fair and satisfactory wages;
  - ii) the right to establish and to join trade unions;
  - iii) the right to housing;
  - iv) the right to health, medical assistance, social security and social services;
  - v) the right to education and to professional training;
  - vi) the right to take part in cultural activities in conditions of equality;
- f) the right of access to all public places and services.

The Ordinance was adopted by decree by the former government of Prime Minister Mugur Constantin Isarescu on August 31, 2000. The Ordinance, passed by the Romanian Senate in March 2001, was still before the Chamber of Deputies as this report went to press. It is nevertheless in force until such a time as parliament may decide otherwise, and importantly supplements international legal provisions already in force in Romania, most notably the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).[176]

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[176] Under Article 1(1) of the ICERD, racial discrimination is defined as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." Article 2 of the ICERD commits States Parties to undertaking "to pursue by all appropriate means and without delay a policy of elimination racial discrimination in all its forms and promoting understanding among all races, and, to this end:

> (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
>
> (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
>
> (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

The Romanian Ordinance in its adopted form, although important in remedying the dearth of domestic legal provisions available to combat discrimination, does not conform to the requirements of the Council of the European Union Directive 2000/43/EC, "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" (the "Race Equality Directive").[177] In the first place, the Ordinance does not include an explicit ban on indirect discrimination.[178] Secondly, the Ordinance does not provide for a reversal of the burden of proof in civil cases once a *prima facie* case of discrimination has been established.[179]

Furthermore, more than nine months following the adoption of the Ordinance, the body provided for within the law to oversee the effective implementation of its provisions

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> (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
>
> (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division."

Romania ratified the ICERD on September 15, 1970.

[177] The Race Equality Directive was adopted by the Council of the European Union in June 2000 and published on July 19, 2000, in the *Official Journal of the European Communities*. European Union member states have three years to bring domestic law into conformity with the requirements of the Race Equality Directive. The Race Equality Directive forms part of the *acquis communautaire*, the body of community law which applicant states – including Romania – must adopt prior to membership.

[178] Under Article 2(2)(b) of the Race Equality Directive, indirect discrimination occurs "where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary." The Race Equality Directive further provides that indirect discrimination may be "established by any means, including on the basis of statistical evidence." (Preamble, paragraph 15). The Romanian Ordinance nears sanctioning indirect discrimination at Article 2(2), when it states: "Any active or passive behaviour that generates effects liable to favour or disadvantage, in an unjustified manner, a person, a group of persons on a community, or that subjects them to an unjust or degrading treatment, in comparison to other persons, groups of persons or communities, shall trigger conventional liability, unless it falls under the incidence of criminal law." This standard does not rise to the level of an explicit ban on indirect discrimination, and the lack of explicit provisions on indirect discrimination – a concept which has been elaborated significantly under international law – is lamentable.

[179] The Race Equality Directive states, at Article 8, that in such cases, "it shall be for the respondent to prove that there has been no breach of the principle of equal treatment."

has yet to be established. The deadline set by the government for the creation of the "National Council for the Prevention of Discrimination" was May 24, 2001, and as yet there is little indication of when this body will come into existence.[180] As this report went to press, a draft governmental decision on the form of the National Council reportedly existed but had not been published. It is the position of the *ERRC* that the National Council for the Prevention of Discrimination must: (i) be created without delay; (ii) be vested with the necessary powers to enable it to investigate effectively and to sanction adequately discriminatory treatment, including imposing punitive fines on discriminators and awarding adequate compensatory damages to victims; (iii) be sufficiently independent and guarantee adequate representation to all minority groups subjected to discrimination in Romania, especially Roma.

It should be ensured that the National Council is by no means the only body charged with hearing and ruling complaints of discrimination, and that the Ordinance is enforceable by courts.[181] Courts and organs of the local administration must engage to combat discriminatory treatment of Roma, and must be provided with the proper administrative tools and guidance to ensure that Romania complies with its international obligations in combating all forms of racial discrimination. The government must further ensure that any and all procedures ultimately enacted are accessible, are not overly bureaucratic, and do not require victims of discrimination to apply at multiple instances to receive adequate just remedy. For example, under no circumstances should the tasks of imposing punitive measures and awarding compensation to victims be divided between instances. Finally, the *ERRC* urges the Romanian government swiftly to ratify Protocol 12 to the European Convention on Human Rights.

These concerns notwithstanding, the Ordinance importantly expands the protection against discrimination individuals in Romania enjoy. The signing of Protocol 12 similarly provides renewed recognition of Romania's commitment to bring to an end all forms of discrimination – including discrimination on racial or ethnic grounds – and will have important consequences for individuals when Romania ratifies it. Direct discrimination against Roma is currently a daily occurrence in Romania, and gross patterns of discrimination occur in many fields of life. The next sections detail discrimination issues relating to Roma in the fields of housing, medical care, employment and access to goods and services.

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[180] The deadline of May 24, 2001, was published in the "Strategy of the Government of Romania for Improving the Condition of the Roma", published by the Ministry of Public Information, Bucharest 2001.

[181] Mr Attila Marko, Under State-Secretary for Interethnic Relations of the Romanian Ministry of Public Information, told the *ERRC* on February 2, 2001, that under a proposal adopted by the previous government but never signed into force, the Ordinance would be enforceable only by the National Council, not by courts *(European Roma Rights Center* interview with Mr Attila Marko, February 2, 2001, Bucharest).

7.1. Housing

Authorities in Romania have recently announced plans to segregate Roma.[182] The Romanian daily newspaper *Adevărul* reported on March 1, 2001 that the Mayor of Bârlad, a town in the Moldova region of Romania, had announced a plan to build a separate village for the local Roma on the margins of the town. According to *Adevărul,* the mayor's plan had a twofold purpose: firstly to promote such a settlement as a cultural village and attract tourists, where each Romani group would have a separate street typical of their traditional profession; secondly, to remove Roma from their current dwellings in the town, where they allegedly "do not live in a civilised manner," and where they "destroy furniture" and "commit illegal acts." *Romani CRISS* issued a press release on March 1, 2001, in which they warned the mayor that his plan would violate the law. On March 5, 2001, the representatives of *Romani CRISS* had a meeting with the Mayor and other representatives of local authorities in Bârlad, where they agreed that no such segregated settlement would be built. Moreover, it was agreed that instead the local authorities, with the support of local Romani organisations, will not only refurbish the living quarters of the Romani residents but, in addition, provide them with infrastructure and permanently legalise their situation.

According to reports by Romanian non-governmental organisations, Romanian authorities regularly engage in forced evictions of Roma.[183] In one case, the Bucharest-based non-governmental organisation *Romani CRISS* reported that on September 26, 2000, at 11 a.m., a police unit from the Bucharest Police Station Number 11 carried out the eviction of twelve Romani families, including children and the infirm,[184] from an apartment building located on 7 Medeleni Street, Sector 3 in Bucharest.[185] During the September 26, 2000 eviction, non-Romani families who also lived in the building were not evicted. According to the testimonies of the victims, Roma evicted had not received notice prior to the police action, nor were they presented with eviction orders by the police. The Romani families were not notified about any follow-up decision of the court ordering their eviction from the apartment building. During the eviction operation, the police reportedly intimidated

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[182] The ban on segregation under international law is unequivocal. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 3, stipulates, "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."

[183] United Nations Commission on Human Rights resolution 1993/77, entitled "Forced evictions" adopted on March 10, 1993, states: "The Commission on Human Rights [...] affirms that the practice of forced evictions constitutes a gross violation of human rights [...]" The Commission further urged governments "to take immediate measures, at all levels, aimed at eliminating the practice of forced evictions [...] to confer legal security of tenure on all persons currently threatened with forced evictions." The resolution is available on the Internet at: **http://www.unhchr.ch/html/menub/2/fs25.htm#annexi**. Romanian domestic law bans discriminatory evictions: Article 16 (1) of the Romanian Government Ordinance on Preventing and Punishing All Forms of Discrimination bans "Any threats, constraints, use of force or any

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other means of assimilation, colonisation or forced movement of persons with a view to modify the ethnic, racial or social composition of a region ~~or~~ of a locality[...]." Article 16(2) of the Ordinance states: "According to the ordinance herein, any behaviour consisting in forcing a person belonging to a race, nationality, ethnic group or religion, or a community, respectively, to unwillingly leave their residence, deportation or lowering their living standards with a view to determine them to leave their traditional residence shall constitute an offence. Forcing a group of persons belonging to a national minority to leave the area or regions where they live or a group belonging to the majority population to settle in areas or regions inhabited by a population belonging to national minorities shall both represent violations of the ordinance herein." Article 17(1) of the Ordinance states: "Any behaviour aiming to determine a persons or group of persons to move away from a building or neighbourhood or aiming to chase them away on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall constitute an offence."

[184] The Convention on the Rights of the Child (CRC) establishes the positive obligation of States Parties to provide material assistance, including housing, to children in need. Article 27 of the CRC states: "(1) States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. (2) The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development. (3) States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing."

[185] In 1991, members of these twelve Romani families worked for a construction firm which accommodated them in the apartment building on 7 Medeleni Street. According to *Romani CRISS*, at that time the building did not exist in the municipal registers. The Romani families continued to live in the building after they finished the work for the construction company. They repaired the building and requested the Bucharest municipality to acknowledge formally their presence in these apartments and their right to continue living there. The municipal authorities allegedly refused to sign contracts with the Roma, promising instead to provide them with accommodation elsewhere. (See *Romani CRISS* monitoring report, "The Medeleni Case", October 2000).

and harassed the Roma. According to *Romani CRISS*, five of the Romani families lived in the street until November 1, 2000, when by the permission of the Mayor of Bucharest they were accommodated in an apartment building in the area. The other seven Romani families were, as of November 27, 2000, homeless, and they subsequently reportedly left Bucharest. Also in Bucharest, in spring 1999, police and army troops allegedly evicted approximately forty Romani families illegally residing in the residential block "Hotel Nato II" at 4 Taberei Street, Mănăştur district.[186]

Roma have also recently been threatened with eviction. The daily newspaper *24 ore Mureşene* reported on May 10, 2001, for example, that municipal authorities had issued an order to evict the Romani residents of Călăraşilor Street in Târgu Mureş. The reported official reason was that the street was infested with rats. Authorities reportedly threatened the Roma of Călăraşilor Street that the eviction order may be implemented during the night. As this report went to press, the eviction had not been carried out. The removal of the Romani families from Călăraşilor street would be particularly unfortunate, as it is the last remaining place in Târgu Mureş where Romani residents live alongside non-Romani, in non-segregated housing, in any significant numbers. On May 31, 2001, the *ERRC* sent a letter to Mayor Dorin Florea to remind him of his duties under international law to carry out his responsibilities in accordance with the law and without discrimination as to race. The *ERRC* urged Mayor Florea to officially and publicly remove the threat of eviction from the Romani residents of Călăraşilor Street. At the time this report went to press, the *ERRC* had not received any response to its letter.

In another case, in the summer of 1998, local authorities reportedly attempted to remove forcibly a Romani community of 15-20 households in the village of Săcele near Braşov in order to build a tourist area there, with the intention of relocating the Roma to a nearby area at serious risk of flooding. After lobbying by Romani activists, the Roma were allowed to stay in the settlement.[187] According to a Romani organisation based in Braşov, the legal decision ordering Roma to move to the dangerous area was still valid as of June 21, 2001, leaving Roma under the continuous threat of eviction.[188]

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[186] See Zoon, Ina, *Op. cit.*, p.122.

[187] *European Roma Rights Center* interview with Ms Maria Ionescu, May 10, 2000, Bucharest.

[188] *European Roma Rights Center* interview with Mr Tibor Gabor, June 21, 2001, Braşov.

Regular press monitoring of the major national newspapers by the *ERRC* and *Romani CRISS* indicated that in the early months of 2001, at least three cases of evictions of Roma were reported in the press per month; *Romani CRISS* reports that many more evictions were likely taking place, especially outside Bucharest, but not being reported in major newspapers. Some experts told the *ERRC* that they believe that the number of forced evictions of Roma will increase in the near future.[189] In an editorial appearing in the newspaper *Cotidianul* on July 5, 2001, writing of the recent destruction of Romani dwellings on the outskirts of Bucharest, Mr Valerian Stan describes a new "fashion" of evictions of Roma, the subtext of which is the reestablishment of "legality":

> It took barely an hour for the "dwellings" of a few dozen Gypsy families to be wiped out. Shocked by the misfortune that struck without warning in the morning, the women wail and tear their hair out. The children, too young to understand, scream just because their mothers cry. Although resigned to their fate, men are overwhelmed with sadness. Mayor Ontanu and the leaders of the police squad are happy with what they've done and give interviews (obviously the press came with the authorities). The crowd of journalists is hungry for every word. The central idea is: the authorities have done their job and legality was reestablished. The bulldozers restlessly roam the place where the Gypsies' shacks once were, while cameramen film them in admiration. An hour ago, dozens of people had a place to call home here. Now they no longer have it and don't know where to go. [...] Such destruction of Romani settlements has become something of a fashion lately.[190]

Some flat-owners refuse to rent or sell housing facilities to Roma. In late April 2000, for example, an advertisement appeared in the Romanian press, offering a flat for sale in Bucharest, *"exclus Romi"* – not for Roma.[191] Such blatant and explicit refusals to rent accommodation to Roma are relatively uncommon, but discrimination is reportedly widespread. Far more frequent are cases of the following type: in September 1999, a Romani student was told on the telephone that a room was available for rent. When she arrived to look at the room and the landlady saw that she was Romani, she was reportedly told that the room was not available.[192]

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[189] Mr Daniel Vasile, a Romani lawyer in Bucharest, for example, told the *ERRC* that a new restitution law may bring new pressure to expel persons without valid rental or ownership contracts from the places in which they live. According to Mr Vasile, up to 50% of the Romani population of Bucharest may soon face eviction as a result of property transfers under the new law (*European Roma Rights Center* interview with Mr Daniel Vasile, February 1, 2001, Bucharest).

[190] Stan, Valerian, "Racism and 'Legality'", *Cotidianul*, July 5, 2001.

[191] *Anunţul Telefonic*, Bucharest, April 26, 2000.

Additionally, although many non-Romani settlements, especially non-Romani settlements in rural areas, lack basic infrastructure, Romani settlements in Romania are often characterised by a lack of basic utilities such as electricity and running water, and the degree of deprivation is extreme.[193] In the village of Ocolna, near the city of Craiova in southern Romania, when asked whether their house had running water, a middle-aged Romani man replied in confusion, "Running water? What is that? Oh, I know, I have seen that once in Craiova."[194] As a result, some Romani communities use water from local wells, which is sometimes contaminated and consequently endangers their health.[195] Where Romani settlements have infrastructure, often it is decades old and in dire need of repair. The residents of the Zabrăuţi housing settlement in Bucharest, for example, at the time of an *ERRC* visit on February 1, 2001, were not provided with electricity, although a number of people had illegally appropriated electricity from nearby power lines. Twenty-two-year-old Mr Vasile Gheorghe told the *ERRC* that he had been severely injured while attempting to wire his room up; he fell and broke his back and was rendered paralysed from the waist down.[196] The only source of running water for some of the blocks of flats was a single outside tap. One did not even have a tap and the residents had to ask their Romanian neighbours in nearby houses to use their garden taps. The estate was strewn with rubbish because, according to Roma living at Zabrăuţi, the local municipality refused to collect it.[197]

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[192] *European Roma Rights Center* interview with Ms Diana Sima, May 11, 2000, Turnu Măgurele.

[193] Romania's policy tolerating the existing housing arrangements for Roma violates international law. Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states: "The States Parties ... recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions...." The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) at Article 5(e)(iii) prohibits racial discrimination in the enjoyment of the right to housing.

[194] *European Roma Rights Center* interview with Mr Marian Căliu, May 12, 2000, Ocolna.

[195] *European Roma Rights Center* interview with Mr Vişsorean Radu, May 12, 2000, Ocolna. See also Zoon, *Op. cit.*, pp.127-129.

[196] *European Roma Rights Center* interview with Mr Vasile Gheorghe, February 1, 2001, Bucharest.

[197] *European Roma Rights Center* interview with Ms Carmen Cazacu, February 1, 2001, Bucharest.

Similarly, in Alexandria, a town in southern Romania, at the time of an *ERRC* visit in May 2000, the Romani houses in Potcoava street had no sewage removal system, even though non-Romani houses located at both ends of that street were connected to a sewage system.[198] In some quarters of the predominantly Romani neighbourhood Ferentari in Bucharest, there was only cold water for tenants, and the municipal cleaning service teams had not taken away rubbish, which had then piled up all over the settlement.[199] The same complaint regarding the lack of garbage removal by the authorities was heard in other Romani communities.[200] The lack of heating reportedly led to several deaths of Roma due to exposure in the Ferentari neighbourhood in the winter of 1999/2000.[201] According to reports, Roma in one community have been housed by municipal officials in former pigsties.[202]

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[198] *European Roma Rights Center* interview with Ms Sanda Garaliu, May 11, 2000, Alexandria.

[199] *European Roma Rights Center* interviews with Romani tenants of the Vâltore street in the Ferentari neighbourhood, May 17, 2000, Bucharest. One survey, conducted in 1992, indicated that Roma were three times more likely than non-Roma in Romania to live in dwellings without electricity (see Zoon, Ina, *Op. cit.*, p.127).

[200] *European Roma Rights Center* interviews with Romani tenants of the IAS settlement of Mangalia, May 14, 2000.

[201] *European Roma Rights Center* interview with Ms Florica Niţă, May 10, 2000, Bucharest.

[202] According to human rights researcher Ina Zoon, "In Deva, Hunedoara, Romani families used to live scattered in state-owned apartments all over the city. The loss of employment has resulted in impoverishment, inability to pay rent, and systematic evictions. Homeless, some of the evictees gathered in an abandoned building at the edge of the city. In May 1998, the company that owned the building obtained a court order and forced more than a hundred people, including children, out onto the streets. Some of these families and other homeless Roma from the city gathered in front of city hall asking the municipality for help. After a two-month demonstration, the mayor offered the protesters and their families some pigsties on the outskirts of the city.

Before moving in, the families cleaned the pigsties, filled the channels for pigs' waste with cement, and connected the pigsties to the water pipe running under the building. In October 1999, the structures still lacked toilets and a sewage system, but there was a common bathroom and several toilets in the middle of the courtyard built by a German Catholic organization. Stoves provided heating. The place was relatively clean and free of garbage. A resident said that the municipality does not provide garbage collection, but some of the inhabitants are employees of the local garbage collection company and every now and then they bring their trucks into the neighborhood.

Residents also reported that they were not required to pay rent, but they had to improvise their own infrastructure and services, without any assistance from city hall in money, materials, or equipment. Leasing contracts do not exist, and residences do not have addresses. When residents have to fill out forms, they write in the space for the address: 'to the pigs' (la porci)." (See Zoon, Ina, *Op. cit.*, pp.124-125).

7.2. Medical Care

According to reports, Roma have on numerous occasions been denied access to medical facilities on racist grounds.[203] On September 7, 1999, the Romanian daily newspaper *Ziua* reported that the local office of the Fund for Social Security and Health in Iaşi had decided that Roma who could not afford to pay for their medical treatment and who could not prove that they had medical insurance provided by the state, could not enter the Iaşi County Hospital.[204] The Fund reportedly took this measure because many Roma allegedly did not pay any money to the Fund as they were not registered taxpayers. Mr Adrian Butucă, president of the Fund, reportedly stated that they would ask for assistance from security agencies providing services to hospitals, "so that they do not let Roma set their foot in the hospital."[205] The Târgu Mureş-based non-governmental organisation *Liga Pro Europa* protested against this discriminatory act by filing a complaint with the Department for the Protection of National Minorities on September 29, 1999. In response, the Department opened investigation on October 7, 1999, and requested the Ministry of Health to do the same. On October 13, 1999, the Ministry of Health asked the Fund for Social Security and Health and the Public Health Department of Iaşi to provide an explanation. On August 9, 2000, members of the Romanian government told independent human rights researchers that they were aware of the ban and promised to follow up the case.[206] On February 2, 2001, Mr Dan Oprescu, former Head of Romanian government's National Office on Roma, told the *ERRC* that he had "resolved" the case with a telephone call to the head of the Fund shortly after it had been brought to his attention in August 2000. The *ERRC* is continuing to monitor Iaşi area hospitals to determine whether hospitals are maintaining bans on Roma.

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[203] The Romanian Government Ordinance on Preventing and Punishing All Forms of Discrimination states, at Article 11: "Under the ordinance herein, denying the access of a person or of a group of persons to public health services (choice of a family doctor, medical assistance, health insurance, first aid and rescue services or other health services) on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disfavoured category, on account of their beliefs, sex or sexual orientation, shall constitute an offence."

[204] The Romanian state provides medical care for all citizens who are employed and pay the social security benefits, and those who are officially registered with the state as unemployed.

[205] *Ziua*, September 7, 1999.

[206] See Zoon, Ina, *Op. cit.*, p.85.

In another case, when Mr K.M. from Rupea, a town northwest of Braşov in central Romania, asked for help at the local hospital after being physically abused by a non-Romani man and later by the police on May 6, 2000, the doctors on duty reportedly refused to help him.[207] In Braşov, on a night in mid-April 2000, the doctor on duty in the local emergency ward allegedly refused to provide medical assistance to the sick two-year-old grandson of Mr Tibor Gabor, complaining of the late hour of their visit and saying that "she was in no mood to treat a Gypsy boy."[208] According to human rights researcher Ina Zoon: "The overwhelming majority of Roma interviewed stated that [...] doctors have rejected them. [...] Many people interviewed by the author alleged denial of treatment on racial grounds."[209]

As many Romani communities live in isolated villages or on the outskirts of the cities, in areas with neither public transport nor access to telephone, their access to health services is severely impeded. In Balta Arsă, northeastern Romania, medical teams refuse to come to the Romani settlement as "there is no transport to their community."[210] The road from the village to the nearest medical centre, 5-7 km away, is reportedly very bad and cannot be used in inclement weather.[211]

7.3. Employment

Massive unemployment cripples the Romani community in Romania. Some Romani activists claim that perhaps 65% of Roma have no jobs.[212] A Romani activist in the Braşov County estimated that the unemployment rate in his area ran at close to 75%.[213] This contrasts sharply with the national unemployment rate of 12.2%.[214]

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[207] *European Roma Rights Center* interview with Mr K.M., May 18, 2000, Rupea.

[208] *European Roma Rights Center* interview with Mr Tibor Gabor, May 16, 2000, Braşov.

[209] Zoon, Ina, *Op. cit.*, p.83.

[210] *European Roma Rights Center* interview with Ms Mariana Buceanu, May 10, 2000, Bucharest.

[211] See Save the Children Romania, "Rroma Children in Europe", Bucharest: Save the Children, 1998, p.155.

[212] *European Roma Rights Center* interview with Mr Virgil Bițu, May 9, 2000, Bucharest.

[213] *European Roma Rights Center* interview with Mr Lucian Gheorghe, May 16, 2000, Braşov.

[214] See United Nations Development Program (UNDP) Country Office Romania, "National Early Warning Report: Romania. Quarterly Report No. 1-2000," Bucharest: 2000, p.9.

Roma are frequently explicitly excluded as potential applicants for jobs in announcements in Romania.[215] "We are looking for bodyguards, 1.77 m, military service done, Roma are not accepted," reads the text of a job announcement which appeared in the Bucharest's 3rd sector Bucharest City Agency for Employment and Vocational Training, posted by a private firm called *S.C.Guard* on July 31, 2000. On August 3, 2000 *Romani CRISS* filed a complaint with the office of the Romanian Ombudsman, as well as with the firm, and with the Bucharest City Agency for Employment and Vocational Training. *Romani CRISS* withdrew the complaints, however, after Mr Marian Grigore, executive director of the latter body, publicly apologised. Similar advertisements for bodyguards explicitly stating that Roma need not apply appeared in the daily listings service *Anunţul Telefonic* in the period March 12-28, 2001. The problem of exclusion of Romani applicants in job announcements was recently acknowledged by then-Head of the Department for National Minorities of the Romanian government, Mr Péter Eckstein Kovács, during his address at the European Conference against Racism, held in October 2000 in Strasbourg, France.[216]

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[215] Section 1 of the Romanian Government Ordinance on Preventing and Punishing All Forms of Discrimination is devoted, in its entirety, to "Equality in the economic activity, in terms of employment and profession". Thereunder, the Ordinance provides:

- Article 5: "According to the ordinance herein, conditioning the participation of a person in an economic activity or one's free choice and exercise of a profession on one's appurtenance to a race, nationality, ethnic group, religion, social status, on one's beliefs, sex or sexual orientation, respectively, or on one's appurtenance to a disfavoured category shall constitute an offence."
- Article 6: "The following shall constitute offences: discrimination on account of the race, nationality, ethnic group, social status, disfavoured category one belongs to, respectively on account of one's beliefs, sex or sexual orientation in a labour and social protection relation, with respect to:

  a) The conclusion, suspension, modification or conclusion of the labour relation;

  b) The establishment and modification of job-related duties, of the work place or of the wages;

  c) The granting of social rights other than the wages;

  d) The professional training, refreshment, conversion or promotion;

  e) The enforcement of disciplinary measures;

  f) The right to join a trade union and to access to the facilities it ensures;

  g) Any other conditions related to the carry out of a job, in accordance with the law in force."
- Article 7: "(1) In accordance with the ordinance herein, the refusal of any legal or natural entity to hire a person on account of the applicant's race, nationality, ethnic appurtenance, religion, social status, beliefs, sex or sexual orientation shall constitute an offence. (2) If, in any job advertisement or interview, the employer or employer's representative set conditions related to the appurtenance to a race, nationality, ethnic group, religion, sex or sexual orientation, social status or disfavoured category or the applicant's beliefs for filling in a position, except for the situation provided under Article 2 paragraph 4, this deed shall constitute an offence. [Editor's note: Article 2, paragraph 4 of the Ordinance provides for the possibility for authorities and private actors to engage in positive measures and affirmative action for disadvantaged groups.] (3) Natural or legal entities involved in mediating and distributing work places shall ensure the equal treatment of all applicants, their free and equal access to opportunities to consult the supply and demand of the labour market, to consulting on opportunities to obtain a job or a qualification, and shall refuse to support the employers' discriminatory requirements. All information related to the race, nationality, ethnic appurtenance, sex or sexual orientation of applicants for a job or any other private information shall be confidential."
- Article 8: "Discrimination committed by employers against their employees with regard to the social facilities they grant their employees on account of the employees' appurtenance to a race, nationality, mother tongue, ethnic background, religion, sex, social status, sexual orientation or beliefs shall constitute an offence."

Even where discrimination is not explicit, racial hatred plays a significant role in the failure of Roma to secure gainful employment. In 1999, for example, a computer-literate, English- and French-speaking Romani university student in Bucharest was told by prospective employers that she was a "perfect candidate" in a telephone interview for a secretarial job. However, when she appeared in person at the office in question two hours later for a scheduled interview, she was told that the position was already taken.[217] In the same year, *Romani CRISS* conducted several tests by sending an educated and qualified – dark-skinned – Romani person to apply for various jobs; the applicant was regularly refused.[218] Discrimination in hiring procedures is further compounded by the discrimination and abuse Roma suffer in the field of education; these often result in inability to secure proper qualifications for skilled employment.

Those Roma who are employed have, during the course of *ERRC* research, frequently reported abusive treatment in the work place, such as being given the toughest jobs. In rural areas, the only employment that many Roma can acquire is seasonal agricultural work, where for only an occasional day of work, Roma receive low payment and are in return expected to work long hours.[219] In some cases, Roma reportedly receive or are offered lower wages than non-Roma for the same kind of work. At one local co-operative farm outside Mangalia, it was reported to the *ERRC* that in August 1999, Roma there had refused an offer to work for a daily wage of 20,000 lei (approximately one euro), while the non-Romani workers who later received the jobs were paid 100,000 lei (approximately five euros) per day plus meals.[220] Mr Daniel Vasile, a Romani attorney working in Bucharest, told the *ERRC* that in the course of his daily work, contacting the authorities in the representation of his clients, "They don't ever believe that I can be a lawyer. The first question is always whether my father is a foreigner. They presume I am Arabic or something similar. No one assumes I am Romani." [221]

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[216] Mr Péter Eckstein Kovács, speech given and distributed at the European Conference Against Racism, Strasbourg, October 13, 2000.

[217] *European Roma Rights Center* interview with Ms Diana Sima, May 11, 2000, Turnu Măgurele.

[218] *European Roma Rights Center* interview with Mr Virgil Biţu, May 9, 2000, Bucharest. On "testing", see Alemu, Fitsum, "Testing to Prove Racial Discrimination: Methodology and Application in Hungary", *Roma Rights,* 3/2000, pp.69-75, on the Internet at: **http://errc.org/rr_nr3_2000/legal_defence.shtml.**

Many Roma who practice traditional Romani crafts, such as smithing, face numerous obstacles in receiving the necessary certificates in order to render their practices legal. An authorisation must be obtained from the local mayors, and in order to receive it, one needs to provide proof of adequate education, or official proof of at least three years of practice. Authorising documents are close to impossible to obtain for most Roma, as they generally learn traditional skills and gain experience within their own families. Those who want to sell their products also must obtain an authorisation, again from municipal authorities. According to numerous Romani testimonies to the *ERRC* from all over Romania, both of these administrative procedures are long, complicated, expensive and differ from one municipality to another, the latter factor creating difficulty for those Roma who are itinerant. Bribes for municipal officials seem often to be considered compulsory.

The Romanian government has to date taken no effective measures to improve the dire situation of Roma in employment, reportedly limiting its contribution to mere approval of proposals made by non-governmental organisations working in this field.

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[219] *European Roma Rights Center* interview with Mr Napoleon Voicu, May 12, 2000, Ocolna; and *European Roma Rights Center* interview with Mr Vicşorean Radu, May 12, 2000, Ocolna.

[220] *European Roma Rights Center* interview with Mr Vasile Cobzaru, May 14, 2000, Mangalia.

[221] *European Roma Rights Center* interview with Mr Daniel Vasile, January 31, 2001, Bucharest.

7.4. Access to Goods and Services

In numerous places throughout Romania, Roma are banned from access to, or refused service in, shops, restaurants, discotheques, and other public accommodation.[222]

Roma are often refused service in Romanian shops. In one case in Craiova, in early April 2000, Mr Nicolae Dumitru from Craiova and his wife and daughter were reportedly not allowed access to a local coffee and confectionery shop called "New York". The family entered the restaurant, chose some cakes, and paid for them at the counter, and then, before they had received the cakes, a man present made a sign to the saleswoman, by waving his hand, that they should not be served. According to Mr Dumitru, the man was one of the owners of the restaurant. The saleswoman then reportedly stated that she could not serve them, and when asked why, she said, "We are not allowed to serve you because you are Gypsies." The saleswoman returned their money to them and then asked them to leave, after which the family left.[223] Similarly, on May 10, 2000, in Bucharest, a young Romani woman was refused service in a shop, and after she made a comment on it to a friend present, the owner replied that "it was his shop," implying that he could do as he pleased.[224] According to *Romani CRISS*, in the locality of Suceava, northeastern Romania, Roma were reportedly not allowed access to a shop owned by a vice-mayor of the town.[225]

Roma are also often barred from restaurants, bars and discotheques. On the night of May 12, 2000, for example, a group of *ERRC* associates, consisting of two Romanian

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[222] Article 13 of the Romanian Government Ordinance on Preventing and Punishing All Forms of Discrimination provides: "Under the ordinance herein, denying the access of a person or group of persons to the services provided by hotels, theatres, cinemas, libraries, shops, restaurants, bars, discotheques or any other service providers, whether they are public or private property, or by public transportation companies (by plane, ship, train, subway, bus, trolley-bus, tram car, taxi or by any other means of transport) on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall constitute an offence." Article 14 of the Ordinance states: "Under the ordinance herein, the refusal to grant a person certain rights or facilities, on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation shall constitute an offence."

[223] *European Roma Rights Center* interview with Mr Nicolae Dumitru, May 13, 2000, Craiova.

[224] *European Roma Rights Center* interview with Ms Diana Sima, May 11, 2000, Turnu Măgurele.

[225] *Romani CRISS* communication with *ERRC*, October 28, 1999, Bucharest.

Roma, and a British citizen whose southeast Asian features were in Romania repeatedly identified as Romani, were refused entry to the "Gin Gin" discotheque in Craiova. After the group demanded an explanation from the bouncers, the latter replied that this was a student club and that it was necessary to have a student pass to enter. Nevertheless, an announcement with this rule could not be seen anywhere outside or inside the disco. Moreover, several minutes earlier, a non-Romani researcher of the *ERRC* had been allowed entry without being asked for any student pass. Only after the British member of the group spoke up in English, and produced an international student pass, was the group allowed entry.[226] Allegedly, the same disco had previously featured a sign saying "Roma and dogs not allowed."[227] Also in Craiova, Mr Ion Cazacu told the *ERRC* that his son had tried to enter a disco/restaurant named "Aristocrat", and had reportedly not been allowed in because of his Romani ethnicity.[228]

Such discriminatory practices have been documented in Bucharest as well. The Bucharest-based non-governmental organisation *Romani CRISS*, for example, conducted testing action in relation to public access to discos and clubs to Roma in Bucharest, on May 5 and 6, 2000. Romani members of the testing group were refused in several clubs on a Bucharest university campus, and also in several night-clubs in the city, with the excuse that they did not have "membership IDs", while their non-Romani colleagues had been allowed to enter without being asked for any documents. *Romani CRISS* announced that they had filed a complaint in relation to these cases with the Romanian Ombudsman's Office. As of June 21, 2001, the organisation had reportedly received no response to their complaint.

Similarly, on January 26, 2001, and again on February 2, 2001, employees of a pub called "Angely" in Pitești, Arges County, reportedly barred entry to Roma. During the latter incident, the owner was videotaped stating that the pub did not serve "Gypsies". On February 6, 2001, Mr Cristinel Feraru, Mr Madalin Morteanu and Mr Virgil Petriu – three of the four Romani men refused entry on February 2 – filed a complaint with the National Supreme Court on February 6, 2001. The case was pending as this report went to press.[229]

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[226] *European Roma Rights Center* interview with Ms Diana Sima, May 13, 2000, Craiova; *European Roma Rights Center* interview with Ms Mona Rai, May 13, 2000, Craiova; and *European Roma Rights Center* interview with Mr Nevers Crăciun, May 13, 2000, Craiova.

[227] *European Roma Rights Center* interview with Ms Diana Sima, May 13, 2000, Craiova; the claim that this discotheque did at some point feature a racist announcement banning access to Roma was corroborated by a number of non-Romani locals in Craiova in May 2000.

[228] *European Roma Rights Center* interview with Mr Ion Cazacu, May 13, 2000, Craiova; the date of the incident was not specified.

Requesting specific identification documents is a common pretext for banning Roma from entry to bars and restaurants. In 1998, for example, in Cluj-Napoca, north-western Romania, security guards at a disco club refused entry to a group of young Roma from other parts of Romania attending a seminar in Cluj-Napoca. The Roma were first asked by bouncers to show student cards, and when the Roma produced them, they were told that these were still invalid, as, to enter the disco, "they would need to be students in Cluj-Napoca." The group later saw non-Romani persons entering the disco without being asked for any documents.[230]

In June 1999 in Brăila, eastern Romania, a group of four young Roma was reportedly asked to leave a disco club because two of the girls in the company were dressed in traditional attire. According to reports, after a waitress told the Roma that they should leave, mentioning their "indecent clothes", the owner of the disco also approached them, saying that Roma were not allowed into the disco, after which the group left.[231]

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[229] *Romani CRISS/ERRC* local monitoring update, June 21, 2001.

[230] *European Roma Rights Center* interview with Ms Diana Sima, May 13, 2000, Craiova.

[231] *Ibid.*

8. ROMA IN THE EDUCATION SYSTEM OF ROMANIA

Beginning in 1992, the Romanian Ministry of Education has undertaken a series of measures related to Roma and education, including affirmative action to ensure admission of Roma to university; appointment of inspectors at the district level to monitor Romani education; training of teachers of Romani language; development of a Romani language curriculum for the school system; organising summer camps for Romani children; and providing supplementary literacy courses for Roma. A department has been established at the University of Bucharest for the study of the Romani language and literature. *ERRC* research indicates that these efforts notwithstanding, the majority of Romani children in Romania remain significantly hindered in their ability to claim the right to a substantive and meaningful education.[232] In Romania, although by law the right to education is guaranteed, education can in practice be inaccessible for Romani children.[233] Romani children in Romania are often excluded from school. Where Romani children are in school, they frequently attend racially segregated classes or schools.[234] In some cases they are segregated in schools

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[232] According to the *Save the Children Romania*, "The education system succeeds in nothing more than to preserve and to amplify the status of inequalities between the Roma and the majority of the population as well as other ethnic groups." See Save the Children, "Rroma Children in Europe", Bucharest, 1998, *Op. cit.*

[233] The right to education is guaranteed under Romanian law as well as by international treaties to which Romania is a party. Article 32(1) of the Constitution of Romania stipulates: "The right to education is provided for by the compulsory general education, by education in high schools and vocational schools, by higher education, as well as other forms of instruction and post-graduate refresher courses" (official translation). Article 26 of the Universal Declaration of Human Rights states: "Everyone has the right to education." Article 2 of Protocol 1 to the European Convention on Human Rights states: "No person shall be denied the right to education." Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states: "The States Parties to the present Covenant recognise the right to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace." Romania ratified the ICESCR on December 9, 1974. Article 29(1) of the Convention of the Rights of the Child (CRC) states: "States Parties agree that the education of the child shall be directed to: (a) the development of the child's personality, talents and mental and physical abilities to the fullest of their potential; (b) the development of the respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own; (d) the

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preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) the development of respect for the natural environment."

[234] Romania is party to a number of international human rights treaties which explicitly prohibit all forms of discrimination in education, both direct and indirect. Article 5(e)(v) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) stipulates: "In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right to everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] e) economic, social and cultural rights, in particular [...] (v) the right to education and training; [...]" Article 3 of the UNESCO Convention against Discrimination in Education states: "In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake: (a) [...] to discontinue any administrative practices which involve discrimination in education; (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions." Romania ratified the UNESCO Convention in 1964.

Romanian domestic law provides similar guarantees; the Romanian Government Ordinance on Preventing and Punishing All Forms of Discrimination includes provisions at Section 3 guaranteeing access to education regardless of ethnic or racial origin. Specifically, Article 15 of the Ordinance states:

- "(1)Under the ordinance herein, denying the access of a person or of a group of persons to the state-owned or private education system of any kind, degree or level, on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall constitute an offence.
- (2) The provisions of the paragraph above shall be applicable to all stages and levels of education, including admission or enrolment in education institutions and the assessment and examination of students' knowledge.
- (3) Under the ordinance herein, requiring a declaration to prove a person's or group's appurtenance to an ethnic group as a condition for access to education in their mother tongue shall constitute an offence. The exception to the rule is the situation when the candidates apply in the secondary and higher education system for places allotted specifically to a certain minority, in which case they must prove their appurtenance to that minority by means of a document issued by a legally established organisation of the respective minority.
- (4) The provisions under paragraphs (1), (2) and (3) shall not be interpreted as a restriction of the right of an education institution to deny the application of a person whose knowledge and/or prior results do not meet the required admission standards of that institution, as long as the refusal is not determined by the person's appurtenance to a race, ethnic group, nationality, religion, social category or to a disadvantaged category, by his/her beliefs, sex or sexual orientation.

for mentally handicapped children. Where Romani children attend regular schools, incidents of physical abuse and humiliating treatment by both the school staff and the non-Romani children are common.

8.1. Exclusion from School

The Romanian Law on Education recognises "equal rights of access to all forms and levels of education for all Romanian citizens."[235] *ERRC* research in Romania found that where Romani children are concerned, this right is frequently violated. Racist prejudice, bureaucratic obstacles and poverty effectively hamper access to school for many Romani children.

For example, a lack of identity documents has been used as a pretext for denying Romani children access to school.[236] In Timişoara, near the western border of Romania,

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- (5) The provisions under paragraphs (1) and (2) shall not be interpreted as a restriction of the right of education institutions that train personnel employed in worship places to deny the application of a person whose religious status does not meet the requirements established for access to the respective institution.
- (6) According to the ordinance herein, any restrictions based on appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category in the establishment and licensing of education institutions set up in accordance with the legal framework in force shall constitute an offence."

[235] See Article 5(1) of the Romanian Law on Education, adopted as the Law on Education 84/1995, amended by Ordinance 36/1997 and by Law 151/1999. (Official translation by the Public Information Department of the Government of Romania).

[236] Human rights researcher Ina Zoon has written recently on the importance of documents for – and the role of a lack of documents in precluding Roma from – realising basic rights in Romania: "The existence of identification documents is the ***sine qua non*** for accessing social welfare benefits, health services, or public housing. Not having such documents seriously affects the exercise of many other rights by placing a person's freedom in danger, jeopardizing his or her participation in community life, and barring access to employment and education. The lack of documents is one of the most important problems confronting a large segment of the Roma population in Romania. The Working Group of Roma Associations (GLAR) considers that any strategic approach to Roma issues in Romania must prioritize support for obtaining identity documents. The most frequently mentioned missing documents are birth certificates and identification cards. The lack of civil marriage certificates raises difficult legal issues but also sensitive cultural ones related to the acceptance of the civil institution of marriage within the Roma community. [...] Birth certificates may be missing because children are born at home, and parents neglect or postpone

Romani parents wishing to enrol their children in a local school discovered that this was impossible because their children did not have birth certificates issued in Romania.[237] In the early 1990s, a large number of Romani families from Timişoara went to Germany and were forced to return to Romania following a readmission agreement between Germany and Romania in September 1992. One case illustrating the obstacles facing this particular group of Romani children who were born outside Romania is the case of Claudia Tranca, born in Leipzig, Germany, in 1992, and later moved with her family to Romania, to the Voluntari suburb of Bucharest.[238] In 1999, local authorities refused to allow Claudia to enter the public school system, with the excuse that her birth certificate would first need to be translated from German to Romanian. Moreover, they also requested that Claudia's parents renounce their daughter's claim on German citizenship in order to enrol her.[239] Later, the authorities claimed that Claudia would need to obtain a Romanian birth certificate

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registering the newborn. Legal provisions that provide high fines for delays in registering children, the social workers' lack of interest in assisting Roma, and the corruption within the administration are additional obstacles to obtaining birth certificates. Experts describe the lack of birth certificates, identity cards, and civil marriage certificates as a 'mass phenomenon'. Thousands do not have legal documents that reflect their family relationships and legal status correctly." (See Zoon, Ina, *Op. cit.*, pp.35-36). In the extreme case, the Roma concerned may be stateless. A forthcoming report by ***Save the Children UK*** estimates that 1200-6000 Roma in Romania may be stateless (Save the Children Fund UK, "Denied a Future? The Right to Education of Roma/Gypsy and Traveller Children", draft May 2001 (final report, forthcoming, October 2001), p.25). The recently published Romanian Government "Strategy of the Government of Romania for Improving the Condition of Roma" acknowledges that statelessness is a problem among Roma when it lists "solving the cases of stateless Roma in Romania" as a goal of government policy (The Government of Romania, Ministry of Public Information, "Strategy of the Government of Romania for Improving the Condition of the Roma", Bucharest 2001, adopted as Government Resolution 430, official translation, p.8).

[237] The OSCE High Commissioner on National Minorities, "Report on the Situation of Roma and Sinti in the OSCE Area" notes that "In the Romanian city of Timişoara, parents encountered so many barriers in this regard that they prevailed upon a Romani educator to organise alternative educational program in her home." See Organization for Security and Cooperation in Europe, High Commissioner on National Minorities, "Report on the Situation of Roma and Sinti in the OSCE Area", p.73. See also Zoon, Ina, *Op. cit.*, pp.38-39.

[238] The case was reported to the *European Roma Rights Center* by the Commission for Security and Cooperation in Europe (CSCE) office of the United States government on September 22, 2000.

[239] Prior to 1999, German law made no provisions, outside the naturalisation procedure, for non-Germans born in Germany to receive citizenship, and even afterwards, provisions for the non-ethnic Germans have remained restrictive; Claudia Tranca had no German citizenship to renounce.

to prove her Romanian citizenship. In fact, according to Romanian law, children acquire their parents' citizenship automatically. Following intervention by the Commission on Security and Cooperation in Europe of the United States Department of State, Claudia Tranca was finally admitted to school in the autumn of 1999. Most Romani children in Romania, however, do not have the possibility of assistance from the United States government in gaining access to the school system.

Another problem related to access to school for the Romani children who were forcibly returned from Germany after the 1992 readmission agreement stems from the fact that education officials often refuse to recognise their schooling abroad.[240] Consequently, many Romani children have been denied access to school on the grounds that they had passed the school-starting age. According to the High Commissioner on National Minorities, "Although this should not have prevented their enrolment, many were, their parents recalled, denied the right to register on the ground that they were 'too old'."[241]

ERRC research in Romania has established that many Romani children who have failed to start school at the regular school age or dropped out, face serious obstacles to enrolment, notwithstanding provisions in Romanian law for the education of individuals who are older than the legal school age in the regular schools.[242] In one case, *ERRC* researchers found that school authorities had apparently applied a range of excuses to exclude Romani children and young adults from school in the village of Pintic, Bistriţa-Năsăud County. A group of 25 Romani people from the village of Pintic, aged between 10-25, who were illiterate or semi-literate, wanted to learn to read and write. The Ministry of Education reportedly declined the request of the international non-governmental organisation *Médecins Sans Frontières* for the creation of a literacy class. In its decision, the Ministry referred to Article 6 of the Law on Education, according to which school attendance is no longer compulsory after 16 years of age. The Ministry of Education reportedly recommended enrolment of the Romani children under the age of 16 in the regular schools. *Médecins Sans Frontières* then attempted to enrol the remaining twenty Romani children in the first grade of a regular school. For this purpose, the local school had to form a second first class in order to meet regulations on numbers of students per class. Formation of a new class, however, required allocation of additional funds and space. Mr Patrick de Briey of *Médecins Sans Frontières* told the *ERRC:* "The school director, deputy directors, and the county inspectorate were reticent to allow this class to be formed. They held the prejudice that if these children did not go to school when they should have gone, there was less chance that they would go now at this age."[243] Finally, the Ministry of Education refused to allow the formation of a second class, arguing that pursuant to the Law on Education, Article 20(4), the Ministry had a legal obligation to ensure formation of classes solely for individuals who did not graduate from the first four grades of compulsory education and who were still under fourteen years of age. Only nine children in this particular group met this condition. Their number, however, was not sufficient to form a separate class, for which a minimum of ten children is required by the Law on Education, Article 158(1). As a result, 25 Roma of Pintic remained outside the school system.[244] Parents in the Zabrăuţi neighbourhood of Bucharest told the *ERRC* in February 2001 that their children had only had access to the local school for the last four years. They had been refused enrolment until a member of parliament intervened.[245]

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[240] OSCE High Commissioner on National Minorities found that, "Although some of the children in question attended school while abroad (not a few of them thrived; among those who emigrated to Germany, many quickly mastered the German language), the local schools in Timişoara did not recognise their foreign schooling for purposes of placement." See Organization for Security and Cooperation in Europe, High Commissioner on National Minorities, *Op. cit.*, p.73.

[241] See OSCE, *Op. cit.*, p.73.

[242] Law on Education, Article 20(4) stipulates: "The Ministry of Education may approve the formation of classes for children who, for various reasons, did not graduate from the first four grades of compulsory education by the time they have turned 14." Official translation of the Public Information Department of the Government of Romania.

In many cases, indifference on the part of the school authorities to the education of Romani children and reluctance to ensure access to school result in the exclusion of Romani children from the education system. For example, for Roma from the Pata-Rât community, located on the outskirts of the city of Cluj-Napoca, school has been practically inaccessible. Mr Alexandru Ciorba, a senior member of the Pata-Rât community, told the *ERRC* that they wanted to send their children to school but they did not know where to send them since there was no school near their settlement.[246] Consequently, up to 1995 the children of the Romani community in Pata-Rât, numbering at the time around 132 in total, did not attend school. With the support of *Médecins Sans Frontières,* in the summer of 1994, twenty children from the community were sent to a summer school at the Primary School Number 12 in Cluj-Napoca, in order to be prepared to join the regular school beginning in September 1994. A representative of *Médecins Sans Frontières* told the *ERRC* that the efforts of the organisation to integrate the Romani children into the school had met with resistance on the part of the school and local authorities. The director of Primary School Number 12 initially refused to enrol the children reportedly on the grounds that they did not meet the sanitary requirements of the school and that allowing them in the school "would put the other children at risk."[247] He reportedly required *Médecins Sans Frontières* to supervise the medical check-ups of the children who wanted to be enrolled in the school. School authorities allegedly protracted the decision about the enrolment of the Romani children until it was too late to enrol them. As a result the Romani children missed another school year. In numerous similar situations, Romani children have lost years of schooling, permanently affecting their educational and post-schooling lives.

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[243] *European Roma Rights Center* interview with Mr Patrick de Briey, September 27, 1997, Cluj-Napoca.

[244] Authorities further told the *ERRC* that major obstacles to the effective use of provisions on the creation of classes for returning students include the stipulation that classes must be attended daily (often impossible because the persons concerned are already working) and rigidity in application inconsistent with the flexibility needed in enabling people to re-start their education. For example, classes provided often mix all ages according to ability, forcing adults to attend classes with small children (*European Roma Rights Center* interview with Professor Gheorghe Sarău, Ministry of Education, February 1, 2001, Bucharest).

[245] *European Roma Rights Center* interview with Mrs Amica Vasile, February 1, 2001, Bucharest.

Recent field research by the *ERRC* indicates that the existence since March 1999 of Ministry of Education inspectors to oversee Romani access to education is beginning to have a positive impact in overcoming the problem of the exclusion of Roma from schooling. The scale of the problem, as well as the legacy of such long-term exclusion, recommend that this practice be strengthened, and that significant resources be allocated to government offices and non-governmental organisations working in this field.

8.2. Racial Segregation of Romani Children in Romanian Schools

Many of the Romani children who do manage to enter the school system are educated in segregated schools or classrooms, isolated from non-Romani children and the mainstream of the Romanian education system. As a result, they suffer the harm of racial segregation and are denied the right to a substantive education.

There are disturbing allegations that in some cases, authorities have segregated Romani children in separate classes in the regular school system, solely on the basis of ethnicity. This can occur as a result of school authorities caving in to anti-Romani prejudice by non-Romani parents. The *ERRC* is aware of cases in which protests by non-Romani parents and their refusal to let their own children be taught together with Romani children have prevailed with school authorities. Romani activist and teacher Letiţia Mark told the *ERRC* that instances of such segregation had occurred in recent years in schools in Bucharest, Oreşti and Vălenii Lapuşului in Maramureş County.[248] According to reports, enrolment of Romani children from the Pata-Rât community, Cluj County, in Primary School Number 12 of Cluj-Napoca for the school year 1995/1996 provoked protests on the part of non-Romani parents. Teachers from the school told the *ERRC* that the parents became "angry and during a meeting stated that they refused to allow Gypsy children in with their own." Following these developments, the director of the school decided to put the Romani children in a separate class.[249] The director of the school had allegedly wanted to place the Romani children in an entirely separate school, but for financial reasons he was not able to do so.[250] Mrs Vasile Amica, a Romani mother in Bucharest, similarly told the *ERRC* that her children were not educated alongside non-Romani children: "There is one class for the Romanians and another for the Roma."[251]

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[246] *European Roma Rights Center* interview with Mr Alexandru Ciorba, September 22, 1997, Pata-Rât.

[247] *European Roma Rights Center* interview with Mr Patrick de Briey, September 22, 1999, Cluj-Napoca.

Similar allegations have been made with respect to kindergartens. For example, in Mangalia, according to local activists, parents of non-Romani children reportedly exercised pressure on the authorities of a kindergarten and threatened to transfer their children if Romani children were accepted in the institution. These events prompted formation of separate facilities for Romani children.[252]

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[248] *European Roma Rights Center* interview with Ms Letiţia Mark, June 26, 2001, Timişoara.

[249] *European Roma Rights Center* interview with teachers from Primary School Number 12, September 22, 1997, Cluj-Napoca. A draft report by the UK non-governmental organisation *Save the Children UK* makes reference to a similar case in the town of Coltău in Maramureş County, *Op. cit.*, p.22.

[250] *European Roma Rights Center* interview with Patrick de Bricy, September 10, 1997, Cluj-Napoca.

[251] *European Roma Rights Center* interview with Mrs Vasile Amica, February 1, 2001, Bucharest. Another instance of segregation of Romani children by the school authorities occurred in the town of Caracal, southern Romania. *ERRC* research in February 1998 established that the local Public School Number 6 had all-Romani classes. One of these was composed of Romani pupils who had registered later than the rest of the students. One teacher at the school told *ERRC* the school authorities placed them all in one all-Romani class. (*European Roma Rights Center* interview with Ms Romaniţa Jorgakie, February 1998, Bucharest).

[252] *European Roma Rights Center* interview with Mr Vasile Cobzaru, May 14, 2000, Mangalia.

In some instances, racial segregation of Romani children takes the form of discriminatory placement in schools for children with disabilities or special educational needs.[253] National statistics on the numbers of Romani children in such schools are not publicly available. However, where rough figures can be established, they are high enough to warrant serious concern. In Cluj-Napoca, the school for the mentally handicapped serves about 200 children, and according to local sources over 70% of them are Romani.[254]

Discretion on placement is the purview of local schooling authorities,[255] and anti-Romani prejudice plays a significant part in determining whether a child is placed in a special school. The *ERRC* was told that in the case of Romani children, when a child falls behind in school, it is very likely that he or she will be labelled as mentally deficient. By law, children can only be sent to these specialised schools with the consent of their parents.[256] However, material benefits provided to the parents or legal guardian of children in special education entice many poor Romani parents to agree to place their children in special schools. For many Romani families faced with deep poverty, sending their children to a school where they can get free meals and supplies is a means of at least providing their children with basic sustenance.

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[253] The Romanian Law on Education, Article 41(1) stipulates: "Special education is provided by the Ministry of Education for pre-school children and students with temporary or permanent physical, mental, sensory, speech, socio-emotional or behavioral disabilities or with associated disabilities for the purpose of instruction as well as their recuperation and social integration." According to Article 41(2), "Children in need of special education are integrated in education units, in special groups and classes of ordinary pre-school and school units, or in regular education units, including those where tuition is in the languages of the national minorities." Official translation by the Public Information Department of the Government of Romania. It should be noted that there is no official policy of segregation in Romania. According to a Ministry of Education Background Paper from June 2000, "Special education is organized with the purpose of training, educating, recuperating, and socially integrating children with deficiencies, using curricula, syllabi, textbooks, and educational technologies designed in accordance with the type and degree of the given child's handicap. The special education network includes kindergartens, primary and lower secondary schools, vocational schools, upper secondary schools, and post-secondary schools. As a specific attention given to pupils with disabilities, the ministry has developed, in line with the provisions of the international documents, a programme for the community integration of handicapped children. The programme sets as its target public school attendance of every child with learning or development problems, making available the necessary psycho-pedagogical and specialised assistance. At the same time the programme initiates the process of preparing and informing the community so as to accept the respective children in the family and the public schools. In the 1999/2000 school year 8 counties were included in the integration programme and in 2000/2001 the programme will be operational nationwide. In this programme the ministry of National Education is co-operating with the UNICEF representative office in Romania, and the RENINCO association, with other non-governmental organisations." (Ministry of Education, "The Romanian Educational System: A Background Paper", Bucharest: Ministry of Education, June 2000, available on the Internet at: **http://www.edu.ro/romanianeducationsystem.htm**.

[254] *ERRC* field research, September 15, 2000, Cluj-Napoca.

[255] Romanian Law on Education, Article 43 stipulates: "The type and degree of disability are diagnosed by inter-school and county expert commissions under school inspectorates." Official translation of the Public Information Department of the Government of Romania.

Another practice contributing to the racial segregation of Romani children in the Romanian school system is placement in separate special classes in regular schools. The Romanian Law on Education provides for the formation of special classes for children with learning disabilities. *ERRC* research suggests that where these classes exist, they are predominantly Romani.[257] The *ERRC* has documented several cases in which school authorities have resorted to placing Romani children in special classes, despite the fact that the children do not show any handicap. The Director of Primary School Number 12 in Cluj-Napoca told the *ERRC* that special classes were formed due to the "special needs of the Romani children, who come from a background that is socially handicapped."[258] According to the same school director, Romani children are placed in these classes on the grounds that they have a "disadvantaged background" and because "their behaviour does not conform to the behaviour of the other children."[259] According to one school psychologist, Romani children were not placed in these classes because they were handicapped, but because they "had behavioural problems stemming from their home life," or "because the teachers don't know what to do with them." [260]

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[256] Romanian Law on Education, Article 45(1) stipulates: "In pre-school and primary education, proposals can be made for a quick transfer from the special school to the regular school and conversely, depending on progress in the child's condition." According to paragraph (2) of the same article, "The transfer proposal is made by the teacher of the child concerned, and the school psychologist. A transfer is made by the expert commission, subject the family's or legal supporter's consent." (Official translation of the Public Information Department of the Government of Romania.)

[257] See, for example, ***European Roma Rights Center*** interview with Mr Liviu Matei, September 11, 1997, Cluj-Napoca, as well as ***European Roma Rights Center*** interview with Ms Eva Zorgo, September 15, 1997, Cluj-Napoca. Ms Zorgo is a school psychologist and, at the time of the interview, a member of the Cluj-Napoca commission.

[258] *European Roma Rights Center* interview with Mr Gaje Dumitru, September 11, 1997, Cluj-Napoca.

[259] *Ibid.*

[260] ***European Roma Rights Center*** interview with Ms Eva Zorgo, September 15, 1997, Cluj-Napoca.

While the placement of Romani children in special educational programs can occur with relative ease, reintegration from special classes or special schools into regular schooling is much more burdened by bureaucratic obstacles and often, in practice, not possible. A supervisory commission is charged with ruling on the merits of a transfer.[261] However, often conflicts of interest burden the commission's ability to render a fair judgement. For example, it is often the case that members of the commission are also part of the administration of the special schools and wish to maintain the number of pupils in their school.[262] In the case of special classes, the director of the school in which the special class is housed has wide powers in determining whether a child should stay in the separate class or be integrated into the normal class, and many are simply opposed to mixed schooling. One school director told the *ERRC*: "Romani children in the special classes in this school are older than the average and cannot be put into the regular classroom. Also, their cultural level is so low and they are so poor that they cannot satisfactorily meet the requirements of the normal class."[263]

Non-governmental organisations working in the field of Romani education have recently begun reporting a new form of pretextual segregation of Romani children in Romania, that of abusively taking advantage of the Ministry of Education's programme on minority language education by forming "Romani language classes" for Roma, in which no Romani language is actually taught. Ms Delia Grigore of the Bucharest-based non-governmental organisation *Aven Amentza* told the *ERRC* that: "Some school directors, trying to put the idea of teaching the Romani language in a bad light, put it into practice in a way that leads to the segregation of the Romani children in separate classes, sometimes even without the Romani language teaching in these classes. The lack of Romani language is generally justified with the excuse that a teacher cannot be found."[264]

Most commonly, however, *de facto* segregated Romani schools are the result of residential segregation, including separate Romani settlements that may be up to several hundred years old.[265] *ERRC* field research in Romania revealed that all over Romania, Romani children, living in Romani ghettos, attend schools apart from their non-Romani peers, and in a state of isolation enforced by their geographic remove from the mainstream of Romanian society. This form of segregation is so prevalent that it often appears invisible to the native Romanians – Romani and non-Romani – and visitors alike, taken for granted almost as if it were a feature of the landscape.

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[261] Romanian Law on Education, Article 45(2).

[262] *European Roma Rights Center* research in Romania in 1997 established that the Head of the Cluj County Commission for Entrance to Special Schools was also director of the special schools Number 1 and 2 in Cluj-Napoca.

[263] *European Roma Rights Center* interview with Mr Gaje Dumitru, September 11, 1997, Cluj-Napoca.

[264] *European Roma Rights Center* interview with Ms Delia Grigore, June 27, 2001.

All of the schools located in Romani neighbourhoods visited by the *ERRC* were visibly inferior in material standards to those located in non-Romani areas, and instruction in them is also reportedly inferior. Romani activist and teacher Letiţia Mark told the *ERRC:* "With very few exceptions, schools in Romani neighbourhoods are in very poor condition. The teachers there are poorly motivated. They have inadequate teaching materials and often have little interest in the children."[266] A boy interviewed by *Save the Children Romania* stated that he had completed six grades at school and was however unable to read or write; he had studied in a school which was attended only by children from the Romani settlement.[267] Similarly, in the all-Romani village of Ocolna, in May 2000, the *ERRC* met Romani children attending primary school who did not know their own age; twelve-year-old children who were unable to write their own name; and also young people from the previous generations of the local school who had graduated from primary school and could not read or write.[268]

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[265] In its "General recommendation 19 on 'Racial segregation and apartheid'", the Committee on the Elimination of Racial Discrimination noted: "The Committee believes that the obligation to eradicate all practices of this nature includes the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State. [...] The Committee observes that while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities, residential patterns are influenced by group differences in income, which are sometimes combined with differences in race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.[...] The Committee therefore affirms that a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities.[...]" (United Nations Committee on the Elimination of Racial Discrimination, "Racial segregation and apartheid (Art. 3):. 18/08/95. CERD General recommendation 19").

[266] *European Roma Rights Center* interview with Ms Letiţia Mark, June 26, 2001, Timişoara.

[267] See *Save the Children* interview with Sorin Iliesiu, "Equal Chances?" video documentary, Save the Children Fund Romania, 1998.

8.3. Racially-Motivated Abuse of Romani Children in Romanian Schools

Where Romani children have overcome the obstacles in enrolling in predominantly non-Romani schools and are educated in an integrated setting, they have often been confronted with both discriminatory treatment by teachers and abuse by non-Romani pupils. Occasionally, such treatment has been accompanied by physical abuse by non-Romani teachers, including the use of corporal punishment for minor breaches of discipline, such as talking in class.

In the village of Bonţida, near Cluj-Napoca, in January 1998, for example, a schoolmaster reportedly pulled the ear of a 10-year old Romani girl so hard that the girl's ear bled and she had to seek medical assistance.[269] After the girl's mother obtained a medical certificate for the injury, the schoolmaster's son, also a teacher in the school, harassed the family, telling them not to press charges against the schoolmaster. Ms Carmen Cazacu, a trainee social worker at school Number 31 in Bucharest also told the *ERRC* of teachers' attempts to humiliate the Romani children in their classrooms. In January 2001, Ms Cazacu entered a classroom to inform the children that she was holding a Romani language class next day for those who wanted to attend. The teacher of the class responded by asking the pupils, "So, who's a Gypsy here?" and encouraged children to point out Romani pupils.[270]

Romani children attending predominantly non-Romani schools are also often exposed to verbal abuse by non-Romani children that goes uncorrected by staff: they are called "Gypsy", and are accused by their classmates of being dirty, or of having fleas and diseases. "[My schoolmates] said that I was Gypsy and that I was not supposed to be there," a 13-year old Romani girl from Alexandria told *ERRC*.[271] In a video produced by *Save the*

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[268] *European Roma Rights Center* interview with Ms M.C., May 12, 2000, Ocolna; *European Roma Rights Center* interview with Ms S.S., May 12, 2000, Ocolna; and *European Roma Rights Center* interview with Mr E.R., May 12, 2000, Ocolna.

[269] *European Roma Rights Center* interview with Ms R.M., March 5, 1998, Bonţida; *European Roma Rights Center* interview with Ms L.M., March 5, 1998, Bonţida.

[270] *European Roma Rights Center* interview with Ms Carmen Cazacu, February 1, 2001, Bucharest.

[271] *European Roma Rights Center* interview with Ms C.C., May 11, 2000, Alexandria.

Children Romania, Romani children interviewed spoke of both physical and verbal abuse from teachers in their village school; others stated that the ethnic Hungarian children with whom they share a school treated them badly and called them "Gypsies".[272] Such abuse has a deep impact on children and can be seen in a denial of identity. One of the Romani children interviewed by the *Save the Children Romania* insisted that, although his parents were Romani, he was Romanian because he did not want to be Romani.

Even in higher education, Roma face discriminatory and humiliating treatment. Mr Daniel Vasile, a successful defence lawyer who is Romani, for example, told the *ERRC* that on the first occasion on which he took the bar exam, where prospective lawyers face oral examination before a commission, he was failed without explanation. He passed at his second attempt the following year and has since been very successful, currently working for one of Romania's most respected attorneys. This gentleman, a former Romanian senator, was surprised that Mr Vasile had failed his first exam and, having reportedly made discreet inquiries, discovered that one of the lawyers sitting on the commission had explicitly objected to Mr Vasile's candidature because he is Romani and that he was failed for this reason.[273]

8.4. Teacher Neglect

Teachers often neglect Romani children in the classroom. Romani children interviewed by the *ERRC* claimed that their teachers never called on them, and ignored their desire to answer questions given to the class. "My teacher is not interested in me," an 11-year old Romani pupil from Bucharest told the *ERRC*.[274] Teachers allegedly often place Romani pupils in seats at the back of the class. Some teachers interviewed by the *ERRC* stated that non-Romani children were "more mentally developed because at least they went to kindergarten"; they were more manageable because they "sit down and are quiet and learn" whereas "the Gypsy children have no sense of politeness and do not conform to the behaviour of the other children."[275] *Save the Children Romania* programme co-ordinator,

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[272] See "Equal Chances?", *Save the Children Romania,* 1998, *Op. cit.*

[273] *European Roma Rights Center* interview with Mr Daniel Vasile, January 31, 2001, Bucharest.

[274] *European Roma Rights Center* interview with Ms A.D., May 13, 2000, Bucharest.

[275] *European Roma Rights Center* interview with teachers of special classes of Primary School Number 12, September 22, 1997, Cluj-Napoca.

Miralena Mamina, told the *ERRC:* "There are teachers who don't like having Romani children in their class and they put them at the back of the classroom and don't pay any attention to them."[276] In various parts of Romania, Romani children from Romani speaking communities testified to having difficulties following education in Romanian, and in many cases their non-Romani teachers reportedly did not assist them or devote adequate time to such pupils. Romani parents complained that the teachers were not performing their tasks with sufficient engagement: "Here they teach for ten minutes and then drink coffee," one Romani parent stated.[277]

8.5. Failure Adequately to Combat Truancy and School Abandonment

Although education in Romania is compulsory for eight years (primary school and lower secondary school), the numbers of Romani children who abandon it early is alarmingly high. According to Professor Gheorghe Sarău, an expert on education of Roma in Romania working for the Ministry of Education, around 65% of Romani children leave school in the 3rd and 4th grades of primary school. Professor Sarău additionally told the *ERRC* that only around 20% of those Romani children who complete primary school continue on to secondary education.[278] A drastic disparity exists between the level of primary and secondary school attendance by Romani children and the average national level in Romania.[279]

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[276] *European Roma Rights Center* interview with Ms Miralena Mamina, January 31, 2001, Bucharest.

[277] *European Roma Rights Center* interview with Mr. N.V., May 12, 2000, Ocolna.

[278] *European Roma Rights Center* interview with Professor Gheorghe Sarău, June 27, 2001, Bucharest. Professor Sarău additionally told the *ERRC* that approximately 80% of children who fail to complete compulsory schooling are Romani (*European Roma Rights Center* interview with Professor Gheorghe Sarău, February 1, 2001, Bucharest).

[279] See Save the Children Romania, "Rroma Children in Romania", 1998, *Op. cit.*, p.123. The issue of low school attendance of Romani children has been raised by the Committee on the Rights of the Child in 1994, which noted: "The low school attendance of the Roma (gypsy) group of children is a serious problem. [...] The government should adopt an active non-discriminatory policy with respect to children of minorities. This would also, particularly in relation to the Roma (gypsy) population, require proactive measures to encourage participation and break a vicious circle of widespread prejudices resulting in hostility or neglect. The problem of low school attendance among children from the Roma minority should be urgently addressed."

For example, according to a 1998 government-sponsored study about 40% of Romani children under the age of 8 did not receive any education at all, and of the total number of children between 7 and 10 years of age, only half attended school regularly. Moreover, only 4.5% of Romani adults have graduated from school or college.[280] One factor underlying the high drop-out rate among Romani children and their generally poor school performance is that they often start school without proper knowledge of the Romanian language. Lack of adequate programs to help Romani children adapt to a new linguistic environment,[281] as well as racist prejudice on the part of those teachers who label their linguistic problems as "mental disability", leads to their lagging behind their non-Romani peers and eventual withdrawal from the education system. The extreme impoverishment of some Romani families is a further obstacle to the successful enrolment and continued attendance of Romani children at school.[282] One common complaint of the Romani parents has been that they cannot afford to buy clothes, textbooks, or notebooks for their children, a fact which directly affects a child's success at school.[283]

8.6. Summary: Racial Prejudice in Action

Many persons working in non-governmental organisations addressing the issue of Roma and schooling state that a key reason for failure of Roma in the school system is their failure to attend kindergarten[284]; kindergarten is not free-of-charge in Romania, and for many impoverished Roma, it has therefore become the equivalent of a luxury. In this and many other areas pertaining to education and Roma, the approach of educational experts in Romania is primarily to address poverty and social issues. It is the position of the *ERRC* that while these are no doubt very significant factors hindering the effective realisation of the right to education by Roma in Romania, exclusive attention to poverty, to the detriment of careful scrutiny of the role of racism, is inadequate in addressing the complex of issues facing Roma in the Romanian educational system. A hostile school environment, where racist treatment of Roma is compounded by neglect of Romani history and culture,[285] reinforces the difficulties confronting them at school. While it has been common in the course of *ERRC* research to hear from government representatives and teachers that Romani children do not attend school "because of the lack of family support in education", throughout the research conducted by the *ERRC*, Romani parents reiterated their awareness of the need to ensure quality education for their children. They pointed to the existence of real and significant barriers to proper education.

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[280] See Reuters, "Gypsies' Situation in Romania", Bucharest, October 5, 1998.

[281] The *ERRC* is aware of Ministry of Education initiatives, in co-operation with UNICEF, to create bilingual teaching materials to combat this problem (*European Roma Rights Center* interview with Gheorghe Sarău, February 1, 2001, Bucharest). It is hoped that adequate funding is available to see initiatives completed, as well as political will exercised to ensure that materials are used effectively.

[282] All children attending primary schools in Romania receive children's allowance from the state in the amount of 130,000 lei (just under 6 euros) per month, and for many Romani families this is the only source of income.

[283] *European Roma Rights Center* interview with Mr Napoleon Voicu, May 12, 2000, Ocolna, and with unidentified Romani inhabitants of the Ferentari neighbourhood, May 17, 2000, Bucharest. While many non-Romani families also suffer poverty in Romania, extreme poverty disproportionately affects Roma. Although textbooks are meant to be free for the first eight years of school, the *ERRC* heard repeated reports that, in reality, there are not enough to go around, and children are expected to buy their own. Moreover, parents are expected to provide pens, exercise books and school clothes for their children. For example, Mrs Amica Vasile told the *ERRC* that her daughter had only completed four years of schooling and had just dropped out because she could not afford the clothes, books and school supplies to send her to school. (*European Roma Rights Center* interview with Mrs Amica Vasile, February 1, 2001, Bucharest).

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[284] *European Roma Rights Center* interview with Ms Miralena Mamina, January 31, 2001, Bucharest.

[285] A draft report by *Save the Children UK* notes: "It seems that the current Romanian textbooks and curricula hardly print names of children belonging to other ethnic groups and do not provide information on non-Romanian personalities or the contribution of other ethnic groups to Romanian history. [...] the history of Roma slavery as well as that of their customs and way of life are not mentioned at all; the image of children in the illustrations of textbooks reflect only the majority; as a result Roma do not recognise themselves in these pictures. [...] No emphasis is placed on injecting schools with multicultural values, or with introducing Romanes language, culture and history to the pupil population as a whole." (*Save the Children UK*, "Denied a Future? The Right to Education of Roma/Gypsy and Traveller Children", *Op. cit.*, p.24-25).

9. THE "STRATEGY OF THE GOVERNMENT OF ROMANIA FOR IMPROVING THE CONDITION OF THE ROMA"

The "Strategy of the Government of Romania for Improving the Condition of the Roma" was published on April 25, 2001, by the Ministry of Public Information.[286] The Strategy was prepared first by the National Office on Roma, within the Department for National Minorities, and then by the newly-formed Department of Inter-Ethnic Relations of the Ministry of Public Information.[287] A "Joint Committee of Implementation and Monitoring" is charged with "organization, planning, coordination and control" of the activities delineated in the Strategy. The Committee will have the following composition:

- President, the State Secretary for Inter-Ethnic Relations
- Members: state secretaries, Roma leaders
- Executive Secretary, the State Undersecretary for Roma[288]

The National Office on Roma is described as "the executive body" of the Joint Committee of Implementation and Monitoring.[289] Additionally, and apart from the Joint Committee, "Inter-ministerial commissions on Roma" are envisioned to co-ordinate the role of various ministries in the programme. The organisational structure also extends to the local level, with the Strategy establishing "County Offices on Roma" and "Local experts on Roma affairs" under the control of the mayoralties.[290]

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[286] The Government of Romania, Ministry of Public Information, "Strategy of the Government of Romania for Improving the Condition of the Roma", Bucharest 2001, adopted as Government Resolution 430, official translation, hereinafter "Government Strategy". The full text of the Government Strategy is available on the Internet at: **http://www.riga.lv/minelres/NationalLegislation/Romania/Romania_antidiscrim_English.htm.**

[287] A governmental re-organisation in early 2001 resulted in the dissolution of Department for National Minorities as an independent entity within the government, and its reconstitution in demoted form as the Department of Inter-ethnic Relations within the Ministry of Public Information. Under the old system, the head of the Department for National Minorities, the supervisor of the National Office on Roma, had the status of Minister. In the new arrangement, two entities – one for Roma and one for ethnic Hungarians – are supervised by the Head of the Department of Inter-ethnic Relations, who in turn is supervised by the Minister of Public Information. The logic of addressing minority issues under a ministry concerned with "public information" is elusive (*European Roma Rights Center* interview with Mr Dan Oprescu, Bucharest, February 2, 2001).

[288] Government Strategy, p.13.

[289] Government Strategy, p.13.

The document is ambitious in its stated general objectives, which include a commitment to ensuring the conditions necessary for Roma to have equal opportunities in obtaining a decent standard of living, as well as a commitment to the prevention of institutional and societal discrimination against Roma. The strategy is also relatively comprehensive in its listed fields of operation, although there is an emphasis on the social and economic situation of Roma. The Strategy includes as "sectorial fields" of action "community development and administration", "housing", "social security", "health care", "economics", "justice and public order", "child welfare", "education", "culture and denominations" and "communication and civic involvement"[291]; it provides detailed targets under each of these headings, as well as a plan of action, including a time-frame for each of the fields and information on which body is to be responsible for carrying out the specified action. The overall time-frame of the Strategy is ten years (2001-2010), with the medium-term plan of action having a target of four years.[292]

There are a number of positive aspects of the Strategy. There seems to have been a genuine effort to consult with Romani leaders and Romani non-governmental organisations in identifying the most serious problems Roma in Romania face; for example, there is an acknowledgement that statelessness is a problem for a number of Roma, and the Government Strategy commits the Ministries of Foreign Affairs, Justice and Internal Affairs to co-operate in formulating a plan by the end of the 2001 to solve it.[293] Another positive aspect of the programme is the recognition on the part of the drafters that changes are necessary at all levels of society if the Strategy is to succeed. Hence, while "Romanian citizens of Roma ethnic origin" are one target group of the programme, the Strategy has identified a further five groups at whom the plan is aimed: "political leaders", "the managers of central and local public authorities", "civil servants", "mass media", and "public opinion".[294] Inherent in this is arguably the recognition that the situation of Roma in Romania is an issue pertaining to the whole of society. Indeed, one of the listed general aims of the plan is that of "removing the stereotypes, prejudices and practices of [...] civil servants."[295]

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[290] Government Strategy, pp.12-14.

[291] Government Strategy, p.4.

[292] Government Strategy, p.4.

[293] Government Strategy, Action No. 63, p.20.

[294] Government Strategy, p.4.

However, elements of the programme give cause for concern. While the general aims of the Strategy are for the most part noble in sentiment, there is a considerable lack of detail in the plans. For example, the goal of "including the Roma community leaders in the local administrative decision-making which affects the Roma"[296] is to be welcomed, but the means of realising this aim are not stated. Can the Romanian government achieve this in a manner compatible with representative democracy? No mechanism is specified in the Romanian Government Strategy. It seems probable that, for the time being at least, this and similar proposals of the Government Strategy are likely to remain little more than "aims". The commitment to finance "multicultural research" is similarly so vague as to be meaningless, and raises the question of whether what is at issue is not simply providing grants to insiders.[297]

The sections of the programme on "Justice and public order" and "Education" are particularly weak. On justice issues, the government leads with the following two tasks:

> 1. Analyzing and estimating the discriminating effects of the regulations in force and improving the current legal system.
>
> 2. Observing basic human rights, the political and social civil rights and also the ethnic minorities' rights according to the international norms and obligations assumed by Romania.[298]

Revealed is the image of a passive state, viewing discrimination as solely the effect of laws, unwilling to act to address discriminatory acts, content to "observe" human rights without acting to guarantee that they are respected by all. Other measures implicitly rehash the prevailing view that Roma are to blame for the unsatisfactory human rights situation in Romania: "7. Initiating programs of legal education and delinquency prevention together with the members of the Roma communities."[299]

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[295] Government Strategy, p.3.

[296] Government Strategy, p.5.

[297] Government Strategy, p.11.

[298] Government Strategy, p.8.

Provisions on education are basically flawed. In the first place, nowhere does the government acknowledge racial segregation in the Romanian school system, and it follows that no measures are proposed to desegregate schools or the school system. Secondly, although measures 88 and 95 concern projects by non-governmental organisations for training Romani teachers in the Romani language and "presentation of measures to introduce, at choice, Romany language and history classes in the educational institutions"[300] respectively, commitment to introduce Romani language education in a thorough-going fashion to Romanian schools is distinctly lacking. It is especially unfortunate that there is no mention whatsoever of Romani language education in the main text of the Government Strategy, giving rise to the suspicion that the government regards the promotion of Romani language education in schools as a very low priority.

Much of the stated "action" is actually "elaborating", "conceiving" or "planning" the implementation of a target. Thus, the Strategy is in reality a plan committing the Government in many areas to little more than more planning over the next four years. It would seem that the statement by the main architect of the Strategy, former Head of the National Office on Roma Dan Oprescu, that "the process is much more important than the product" was in fact a guiding sentiment in its preparation and resulted in a programme obsessed with planning.[301]

In addition, a number of the commitments listed as part of the strategy are inappropriate for a governmental policy document. For example, "penalizing policemen who commit discriminatory acts" is not a matter of government policy but of enforcement of the law.[302] Further, some proposals appear to have a biased subtext; for example, the inclusion of the prevention of the abandonment or abuse of children suggests – absent a clear disclaimer otherwise – that the abuse of children is more likely to occur in Romani communities.[303]

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[299] Government Strategy, p.8.

[300] Government Strategy, p.22.

[301] *European Roma Rights Center* interview with Mr. Dan Oprescu, February 2, 2001, Bucharest.

[302] Government Strategy, Action 66, p.20.

[303] Government Strategy, p.9.

Similarly, the development of a family planning and contraceptive programme within the set of targets to be achieved in health care suggests a lack of sensitivity in approaching the issue of Romani women and health care.[304]

Another fundamental question raised by the Strategy in its present form is the question of resources. Nowhere in the Strategy document is the issue of funding addressed. There must be concern over whether the Romanian government can secure the necessary resources to make a serious attempt at implementing the Strategy. Members of the government are additionally acutely aware that action in favour of Roma is deeply unpopular and spending money on Roma potentially an act of political suicide.

Only shortly after its adoption, the "action plan" is already behind schedule. For example, the third deadline listed concerns the creation of the National Council for the Prevention of Discrimination by May 25, 2001. This body had not yet been established as of June 27, 2001.[305] Additionally, as of that date, the post of State Secretary for Inter-Ethnic Relations had not yet been filled, so the "Joint Committee of Implementation and Monitoring" – the body charged with oversight and implementation of the Strategy – lacked a president.

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[304] Government Strategy, Action no. 112, p.23.

[305] Government Strategy, p.15.

10. CONCLUSION: ROMA RIGHTS IN ROMANIA

Although Romania has undertaken a number of steps to comply with its international commitments – most notably by adopting an anti-discrimination ordinance and a government programme addressing Romani issues – at present the situation of Roma in Romania remains dire. Burdens on Roma and non-Roma alike, arising from centuries of slavery and unequal treatment of Roma, punctuated by episodes of raw persecution, have led to a situation difficult to resolve, in which society itself is corrupted by racism.

This report has focused on impunity. The Romani victims of human rights abuses are frequently described in publications about Romania, including many human rights reports. The extremity of their situation is well documented, their occasional pathos and episodes of despair well recorded, often almost to the point of prurience. The focus of the *ERRC's* report has primarily been the perpetrators: violent abusers; inactive or hostile police officers; investigators who do not investigate; prosecutors who fail to prosecute; apathetic, cruel or demoralised teachers; local officials who segregate; and the government officials and legislators who allowed a full decade to pass following the fall of the Ceauşescu regime, the rise of intense anti-Romani sentiment and the irruption of brutal actions of collective violence, without engaging adequately to stamp out racism and anti-Gypsyism in Romania. We have sought to show the tolerance enjoyed by those who do nothing to defend Roma and nothing to see that they receive justice. We suggest that those who obstruct justice where Roma rights have been violated enjoy the blessing of the greater part of the wider society, and that this truth lies at the core of the central tasks facing the Romanian government today.

Evaluating Romania's compliance with the Convention on the Elimination of all Forms of Racial Discrimination (ICERD) during its Fifty-fifth session in August 1999, the Committee on the Elimination of Racial Discrimination (CERD) issued final concluding observations in April 2001 critical of Romania's efforts to date in the field of Roma rights, and most notably in areas related to the failure of authorities to combat discrimination against Roma. The CERD held explicitly that:

> The situation of Roma is a subject of particular concern since no improvements have been noted in the high unemployment rates and low educational level traditionally predominant among members of this minority; this contributes to the continued unacceptable prevalence of the negative and stereotyped

> image of the minority in the rest of society. Given its disadvantaged situation in society, particular concern is caused by the absence of economic and social measures of the kind envisioned in Article 2(2) of the Convention in favour of this minority, Romania's current difficult economic situation notwithstanding. [...]

The Committee further noted:

> [...] the limited number of cases of racial discrimination that have come before the organs administering justice. The Committee is of the opinion that the lack of more complaints and judicial decisions may indicate a lack of legal awareness of the existence of available legal remedies and of the protection against racial discrimination provided by the Convention. It suggests to the State party that it take measures to remedy this situation. [...]
>
> Measures of affirmative action should be adopted in favour of the Roma population, especially in the areas of education and vocational training, with a view, *inter alia,* to placing Roma on an equal footing with the rest of the population in the enjoyment of economic, social and cultural rights, removing prejudices against the Roma population and enhancing its capacity in asserting its rights. A co-ordinated effort by the various State bodies competent in this area, working in conjunction with representatives of the Roma population, is required.[306]

At the 1999 Istanbul Summit, the OSCE Heads of State declared that: "We deplore violence and other manifestations of racism and discrimination against minorities, including Roma and Sinti. We commit ourselves to ensure that laws and policies fully respect the rights of Roma and Sinti and, where necessary to promote anti-discrimination legislation to this effect."[307] In addition, in the Charter for European Security adopted at the same Istanbul Summit the OSCE participating States declared: "We recognize the particular difficulties faced by Roma and Sinti and the need to undertake effective measures in order to achieve full equality of opportunity, consistent with OSCE commitments, for persons belonging to Roma and Sinti. We will enforce our efforts to ensure that Roma and Sinti are able to play a full and equal part in our societies, and to eradicate discrimination against them."[308] In the 1992 Helsinki Document the CSCE participating States "express[ed] their concern over recent and flagrant manifestations of intolerance, discrimination, aggressive nationalism, xenophobia, anti-semitism and racism" and "reaffirm[ed], in this context, the need to develop appropriate programmes addressing problems of their respective nationals belonging to Roma and other groups traditionally identified as Gypsies and to create conditions for them to have equal opportunities to participate fully in the life of society, and will consider how to co-operate to this end."[309]

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[306] United Nations Committee on the Elimination of all Forms of Racial Discrimination, "Concluding observations of Committee on the Elimination of Racial Discrimination: Romania, 12/04/2001. CERD/C/304/Add.85.", Fifty-fifth session, 2-27 August 1999.

[307] See Organisation for Security and Co-operation in Europe, "Istanbul Summit Declaration", para. 31, November 1999, Istanbul, at **http://www.osce.org/docs/english/1990-999/summits/istadecl99e.htm.**

Romania presently aspires to the status of Member State of the European Union.[310] Inclusion in this organisation requires strict adherence to the highest human rights standards, including but not limited to rights set down in the European Convention on Human Rights. Romania must protect, in law and in practice, the rights set down in the International Covenant on Civil and Political Rights, and must use all appropriate means to achieve progressively the full realisation of the rights recognised in the International Covenant on Economic, Social and Cultural Rights without discrimination of any kind, taking particular care to ensure that no person suffers the anathema phenomenon of racial discrimination.

In January 2001, Romania took up the chair of the OSCE. In light of its record to date on Roma rights, concrete and determined action in the area of improving the human rights situation of Roma in Romania could send a positive message that Romania is engaged to begin a new era in its treatment of Roma. The OSCE chair additionally provides the opportunity for Romania to prove that, despite its economic difficulties,[311] it is intent on taking a leading role in Roma rights issues in the OSCE area. A proactive anti-discrimination programme must be affirmed explicitly in public, worked out in detail as policy, and implemented in practice. The next period will indicate which direction Romania has chosen: engaged government action aimed at remedying the human rights situation of Roma in Romania, or a continued state of impunity, in which Roma rights are violated as a matter of course.

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[308] See Organisation for Security and Co-operation in Europe, "Charter for European Security", para. 20, **http://www.osce.org/docs/english/1990-1999/summits/istachart99e.htm.**

[309] See Conference for Security and Co-operation in Europe, Helsinki Document 1992 "The Challenges of Change", para. 30 and para. 35, Helsinki, 9-10 July 1992, at **http://www.osce.org/docs/english/1990-1999/summits/hels92e.htm.**

[310] Indeed, one member of the Romanian delegation which testified before the CERD in August 1999 suggested that government action to improve the situation of Roma was motivated by Romania's aspirations to join the EU; Mr Dan Oprescu told the Committee that "[t]he Government was [...] paying serious attention to the status of the Roma [...] because Romania's entry into European institutions was contingent upon them." (United Nations Committee on the Elimination of Discrimination, "Summary Record of the 1337th Meeting", CERD/C/SR.1337, 10 August 1999.)

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[311] According to the World Bank, 22% of Romanian citizens lived below the poverty line as of 1999 (See World Bank, "Romania at a Glance" on the Internet at: **http://www.worldbank.org/html/extdr/regions.htm**).

11. A JUST SETTLEMENT: RECOMMENDATIONS OF THE EUROPEAN ROMA RIGHTS CENTER TO THE GOVERNMENT OF ROMANIA:

The *European Roma Rights Center* calls upon the government of Romania to adopt all of the following policies:

1. Take public stands against violence and discrimination against Roma, and condemn any instances of human rights abuse; ensure that all parties responsible for abuse are brought swiftly to justice.

2. Conduct adequate investigation into the pogroms carried out against Roma in 1990-1993 and bring all those responsible, including officials who may have acted in complicity with the civilian mobs, to justice.

3. Carry out prompt, thorough and impartial investigation into all allegations of police abuse of Roma; conclude criminal investigation against members of Romanian police within a reasonable length of time and bring all those responsible for human rights abuse of Roma to justice; award damages to Romani victims when property has been damaged or destroyed. Set up an independent commission for reviewing complaints about police misconduct. Conduct human rights training and sensitivity training of police officers as a measure to prevent racist treatment of Roma.

4. Ensure that Romani victims of police violence are adequately protected against ill-treatment or harassment as a consequence of their complaints.

5. Halt arbitrary use of firearms against Roma and abusive police raids on Romani neighbourhoods.

6. Bring legislation into conformity with international standards for the use of lethal force by law enforcement officials set down in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

7. Guarantee that Romani detainees have access to legal counsel from the moment of their detention and throughout the preliminary investigation. For those who cannot afford legal counsel, provide such assistance free of charge, as required by Article 6(3) of the ECHR.

8. Implement measures to ensure that all Romani children have access to adequate schooling.

9. Act without delay to end racial segregation of Romani children in schools; sanction effectively all instances of abuse of Romani children by school authorities and non-Romani children.

10. Introduce programmes in both primary and secondary school in order to counter racism in the classroom.

11. Allocate sufficient resources to government agencies and non-governmental organisations working to overcome the exclusion of Romani children from adequate schooling.

12. Ensure that Romani children attend kindergarten to improve their chances of full integration into mainstream schooling.

13. Provide Romani children of poor families with the services necessary for their integration in the mainstream schools.

14. Initiate measures to ensure that Roma are provided with identity documents and legal residence permits.

15. Apply affirmative measures in securing employment for Roma at all levels of the administration, police force and judiciary.

16. Launch public education programmes aimed at reducing widespread negative attitudes against Roma, and racism generally. Allocate sufficient human and financial resources to the National Office on Roma and guarantee that it is adequately equipped to perform its duties.

17. Bring the Ordinance on Preventing and Punishing All Forms of Discrimination into conformity with the requirements of Directive 2000/43/EC, "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin," adopted by the Council of the European Union on June 29, 2000 ("European Union Race Equality Directive"), in particular by amending the Ordinance to provide explicit recognition that indirect discrimination is illegal, as well as by adopting provisions to shift the burden of proof to the respondent in *prima facie* cases. Ensure that parliament speedily ratifies the Ordinance.

18. Establish the National Council for the Prevention of Discrimination without delay, ensuring that: (i) the body is vested with the necessary powers to enable it to investigate effectively and to sanction adequately discriminatory treatment, through measures including but not limited to imposing punitive fines on discriminators and awarding adequate compensatory damages to victims; (ii) it is sufficiently independent and includes adequate representation by all minority groups subjected to discrimination in Romania, especially Roma. Allocate sufficient human and financial resources to the National Council for the Prevention of Discrimination and guarantee that it is adequately equipped to perform its duties.

19. Ensure that the National Council is by no means the only body charged with hearing and ruling complaints of discrimination; and that the Ordinance is enforceable by courts. Provide appropriate guidance to administrators to ensure that Romania complies with its international obligations in combating all forms of racial discrimination. Guarantee that any and all procedures ultimately enacted are accessible, are not overly bureaucratic, and do not require victims of discrimination to apply at multiple instances to receive adequate just remedy.

20. Make the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, accepting the competence of the United Nations Committee on the Elimination of Racial Discrimination to receive communications from individuals or groups alleging violation of the Convention.

21. Without delay, ratify Protocol 12 to the European Convention on Human Rights.

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13. APPENDIX

Romanian Govenment Ordinance On Preventing and Punishing All Forms of Discrimination

On the basis of article 107 paragraphs (1) and (3) of the Romanian Constitution
and of article 1 letter S point 2 of Law no. 125/2000 that enables
the Government to issue ordinances

The Romanian Government adopts the following Ordinance:

Chapter I
Principles and Definitions

Article 1

1) In Romania, as a democratic and social state governed by the rule of law, human dignity, citizens' rights and freedoms, free development of human personality represent supreme values and shall be guaranteed.

2) The principle of equality among citizens, the elimination of all privilege and discrimination shall be guaranteed, in particular with regard to the exercise of the following rights:

   a) the right to equal treatment before courts and any other jurisdictional bodies;
   b) the right to personal security and to be granted state protection against violence and mistreatment perpetrated by any individual, group or institution;
   c) political rights, namely electoral rights, the right to take part in public life and the right to access to public positions;
   d) other civil rights, in particular:
      i) the right to freedom of movement and of choosing one's residence;
      ii) the right to leave and return to one's country;
      iii) the right to obtain the Romanian citizenship;

iv) the right to marry and to choose one's partner;
v) the right to property;
vi) the right to inheritance;
vii) the right to freedom of thought, conscience and religion;
viii) the right to freedom of expression and opinion;
ix) the right to freedom of peaceful meeting and association;

e) economic, social and cultural rights, in particular:

i) the right to work, to choose freely one's occupation, to fair and satisfactory working conditions, to protection against unemployment, to equal pay for equal work, to fair and satisfactory wages;
ii) the right to establish and to join trade unions;
iii) the right to housing;
iv) the right to health, medical assistance, social security and social services;
v) the right to education and to professional training;
vi) the right to take part in cultural activities in conditions of equality;

f) the right of access to all public places and services.

3) Any natural or legal entity shall be under the obligation to comply with the principles of equality and non-discrimination.

Article 2

1) According to the ordinance herein, the term 'discrimination' shall encompass any difference, exclusion, restriction or preference based on race, nationality, ethnic appurtenance, language, religion, social status, beliefs, sex or sexual orientation, appurtenance to a disfavoured category or any other criterion, aiming to or resulting in a restriction or prevention of the equal recognition, use or exercise of human rights and fundamental freedoms in the political, economic, social and cultural field or in any other fields of public life.

2) Any active or passive behaviour that generates effects liable to favour or disadvantage, in an unjustified manner, a person, a group of persons or a community, or that subjects them to an unjust or degrading treatment, in comparison to other persons,

groups of persons or communities, shall trigger contraventional liability, unless it falls under the incidence of criminal law.

3) Regulations or orders issued by a natural or legal entity, that generates the effects listed in paragraph (2), shall trigger the contraventional liability of the natural or legal entity, unless it fall Sunder the incidence of criminal law.

4) Measures taken by public authorities or by legal entities under private law in favour of a person, a group of persons or a community, aiming to ensure their natural development and the effective achievement of their right to equal opportunities as opposed to other persons, groups of persons or communities, as well as positive measures aiming to protect disfavoured groups; shall not be regarded as discrimination under the ordinance herein.

5) In accordance with the ordinance herein, the elimination of all forms of discrimination shall be achieved by means of:
   a) affirmative action in favour of persons and groups of persons belonging to national minorities, of the communities of national minorities, when they do not enjoy equal opportunities;
   b) sanctions instituted against the discriminatory behaviour provided under paragraphs (2) and (3) of the article herein.

Article 3

The provisions of the ordinance herein shall be applicable to all public and private natural or legal entities as well as to public institutions with competencies in the following fields:
   a) employment conditions, conditions and criteria of recruitment and selection, criteria for promotion, access to all forms and levels of professional orientation, professional training, and refresher courses;
   b) social protection and social security;
   c) public services or other services, access to goods and facilities;
   d) the education system;
   e) enforcement of public peace and order.

Article 4

In the sense of the ordinance herein, the term 'disfavoured category' is the category of persons that is either placed in a position of inequality as opposed to the majority of citizens due to their social origin or to a handicap or is faced with rejection and marginalisation due to specific circumstances, such as a chronic non-infectious disease, HIV infection or the status of refugee or asylum-seeker.

Chapter II
Special Provisions

Section I
Equality in the economic activity, in terms of employment and profession

Article 5

According to the ordinance herein, conditioning the participation of a person in an economic activity or one's free choice and exercise of a profession on one's appurtenance to a race, nationality, ethnic group, religion, social status, on one's beliefs, sex or sexual orientation, respectively, or on one's appurtenance to a disfavoured category shall constitute an offence.

Article 6

The following shall constitute offences: discrimination on account of the race, nationality, ethnic group, social status, disfavoured category one belongs to, respectively on account of one's beliefs, sex or sexual orientation in a labour and social protection relation, with respect to:

a) The conclusion, suspension, modification or conclusion of the labour relation;
b) The establishment and modification of job-related duties, of the work place or of the wages;
c) The granting of social rights other than the wages;
d) The professional training, refreshment, conversion or promotion;
e) The enforcement of disciplinary measures;

f) The right to join a trade union and to access to the facilities it ensures;
g) Any other conditions related to the carry out of a job, in accordance with the law in force.

Article 7

1) In accordance with the ordinance herein, the refusal of any legal or natural entity to hire a person on account of the applicant's race, nationality, ethnic appurtenance, religion, social status, beliefs, sex or sexual orientation shall constitute an offence.

2) If, in any job advertisement or interview, the employer or employer's representative set conditions related to the appurtenance to a race, nationality, ethnic group, religion, sex or sexual orientation, social status or disfavoured category or the applicant's beliefs for filling in a position, except for the situation provided under Art. 2 paragraph 4, this deed shall constitute an offence.

3) Natural or legal entities involved in mediating and distributing work places shall ensure the equal treatment of all applicants, their free and equal access to opportunities to consult the supply and demand of the labour market, to consulting on opportunities to obtain a job or a qualification, and shall refuse to support the employers' discriminatory requirements. All information related to the race, nationality, ethnic appurtenance, sex or sexual orientation of applicants for a job or any other private information shall be confidential.

Article 8

Discrimination committed by employers against their employees with regard to the social facilities they grant their employees on account of the employees' appurtenance to a race, nationality, mother tongue, ethnic background, religion, sex, social status, sexual orientation or beliefs shall constitute an offence.

Article 9

None of the provisions of articles 5-8 shall be interpreted as a restriction of the employer's right to refuse to hire a person that does not comply with the usual requirements and standards in the field, as long as the refusal does not constitute an act of discrimination under the ordinance herein.

Section II
Access to legal, administrative and health public services, to other services, goods and facilities

Article 10

Under the ordinance herein, the refusal to ensure legal and administrative public services to a natural entity, a group of persons or a legal entity, on account of their appurtenance or to the appurtenance of the management to a race, nationality, ethnic group, religion, social category or disfavoured category, on account of their beliefs, sex or sexual orientation, if the deed does not fall under the incidence of criminal law, shall constitute an offence.

Article 11

Under the ordinance herein, denying the access of a person or of a group of persons to public health services (choice of a family doctor, medical assistance, health insurance, first aid and rescue services or other health services) on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disfavoured category, on account of their beliefs, sex or sexual orientation, shall constitute an offence.

Article 12

Under the ordinance herein, the refusal to sell or rent a plot of land or building for housing purposes, to grant a bank credit or to conclude any other kind of contract with a person or group of persons on account of their appurtenance to a race, nationality, ethnic group, social category or to a disfavoured category, on account of their beliefs, sex or sexual orientation, shall constitute an offence.

Article 13

Under the ordinance herein, denying the access of a person or group of persons to the services provided by hotels, theatres, cinemas, libraries, shops, restaurants, bars, discotheques or any other service providers, whether they are public or private property, or by public transportation companies (by plane, ship, train, subway, bus, trolley-bus, tram car, taxi or by any other means of transport) on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall constitute an offence.

Article 14

Under the ordinance herein, the refusal to grant a person certain rights or facilities, on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation shall constitute an offence.

Section III
Access to education

Article 15

1) Under the ordinance herein, denying the access of a person or of a group of persons to the state-owned or private education system of any kind, degree or level, on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall constitute an offence.

2) The provisions of the paragraph above shall be applicable to all stages and levels of education, including admission or enrolment in education institutions and the assessment and examination of students' knowledge.

3) Under the ordinance herein, requiring a declaration to prove a person's or group's appurtenance to an ethnic group as a condition for access to education in their mother tongue shall constitute an offence. The exception to the rule is the situation

when the candidates apply in the secondary and higher education system for places allotted specifically to a certain minority, in which case they must prove their appurtenance to that minority by means of a document issued by a legally established organisation of the respective minority.

4) The provisions under paragraphs (1), (2) and (3) shall not be interpreted as a restriction of the right of an education institution to deny the application of a person whose knowledge and/or prior results do not meet the required admission standards of that institution, as long as the refusal is not determined by the person's appurtenance to a race, ethnic group, nationality, religion, social category or to a disadvantaged category, by his/her beliefs, sex or sexual orientation.

5) The provisions under paragraphs (1) and (2) shall not be interpreted as a restriction of the right of education institutions that train personnel employed in worship places to deny the application of a person whose religious status does not meet the requirements established for access to the respective institution.

6) According to the ordinance herein, any restrictions based on appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category in the establishment and licensing of education institutions set up in accordance with the legal framework in force shall constitute an offence.

Section IV
Freedom of movement, choice of residence and access to public places

Article 16

1) Any threats, constraints, use of force or any other means of assimilation, colonisation or forced movement of persons with a view to modify the ethnic, racial or social composition of a region or of a locality shall constitute an offence.

2) According to the ordinance herein, any behaviour consisting in forcing a person belonging to a race, nationality, ethnic group or religion, or a community, respectively, to unwillingly leave their residence, deportation or lowering their living standards with a view to determine them to leave their traditional residence shall constitute an

offence. Forcing a group of persons belonging to a national minority to leave the area or regions where they live or a group belonging to the majority population to settle in areas or regions inhabited by a population belonging to national minorities shall both represent violations of the ordinance herein.

Article 17

1) Any behaviour aiming to determine a persons or group of persons to move away from a building or neighbourhood or aiming to chase them away on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall constitute an offence.

2) The provision above shall not be interpreted as a restriction of the authorities' right to enforce urbanism plans, as long as the movement is effected under the law, with fair compensation, and the measure is not determined by the person's or group's appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, by their beliefs, sex or sexual orientation.

Article 18

Under the ordinance herein, denying the access of a person or of a group of persons to public places on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, to their beliefs, sex or sexual orientation shall constitute an offence.

Section V
The right to personal dignity

Article 197

Under the ordinance herein, any offending public behaviour, any public behaviour with a nationalistic-chauvinist character, any incitement to racial or national hatred, or any behaviour aiming to prejudice a person's dignity or to create a hostile, degrading, humiliating or offending atmosphere, perpetrated against a person, a group of persons or a community on account of race, nationality, ethnic group, religion, social category or appurtenance to a disadvantaged category, on account of beliefs, sex or sexual orientation shall constitute an offence, unless the deed falls under the incidence of criminal law.

Chapter III
Sanctions

Article 20

1) The offences provided under articles 5-8, 10-14, 15 paragraphs (1), (2), (3), (6), 16, 17 paragraph (1), 18 and 19 of the ordinance herein shall be sanctioned with a lei 500,000 to lei 10,000,000 fine if perpetrated against a natural entity or with a lei 1,000,000 to lei 20,000,000 fine if perpetrated against a group of persons or a community.

2) The sanctions shall also be applicable to legal entities.

3) The offences provided under Chapter II shall be found and sanctioned by the members of the National Council for the Prevention of Discrimination. The provisions of Law 32/1968 on Establishing and Sanctioning Offences, with its subsequent modifications and completions, shall be enforced accordingly.

4) The fines provided in the ordinance herein shall be updated in accordance with the provisions of article 7ą of Law 32/1968 on Establishing and Sanctioning Offences, with its subsequent modifications and completions.

Article 21

1) In all cases of discrimination provided by the ordinance herein, the persons discriminated against shall be entitled to claim damages, proportionally with the prejudice, as well as to the re-establishment of the situation prior to the discrimination or to the annulment of the situation created by discrimination, in accordance with common law.

2) The claim for damages shall be exempted from judicial taxes.

3) Upon request, the court can order that the competent authorities withdraw the licence of legal entities that significantly prejudice the society by means of a discriminatory action or, although have caused a minor prejudice, repeatedly violate the provisions of the law herein.

Article 22

1) Human rights non-governmental organisations can appear in court as parties in cases involving discriminations pertaining to their field of activity and which that prejudice a community or a group of persons.

2) The organisations provided in the above paragraph can also appear in court as parties in cases involving discrimination that prejudice a natural entity, if the latter delegates the organisation to that effect.

Chapter IV
Final Provisions

Article 23

1) The National Council for the Prevention of Discrimination shall be established as a specialised body of central public administration subordinated to the Government within 60 days since the publication of the ordinance herein in the Romanian Official Gazette.

Article 24

The law herein shall come into force within 60 days since its publication in the Romanian Official Gazette.

Prime Minister,
Mugur Constantin Isarescu

Source: Government of Romania, Department for Protection of National Minorities

14. SUMMARY IN ROMANI

E Europako centro vaš e rromane čačimata si internacionalno čačipaski institucia savi kerel monitoring pala e situacia e rromengi ande Europa thaj lengi legalno protekcia. Kava centro del raporto pala e situacia e rromengi ande Rumunia.

Ande relacia pala majpaluno Rumuniako cenzuso, savo si kerdino ando Januari 1992-to berš, 409,111 manuša katar e sasti rumuniaki populacia (ande Rumunia trail dži kaj 23 milionura manuša) phende kaj si Rroma. Kadava oficielno numbri ande savo phenelpe sode Rroma train ande Rumunia naj precizno; Na-oficielne analize phenen kaj ande akanutni vrama ande Rumunia train maškar 1.5 dži kaj 2.5 milionura Rroma. E Rroma ande Rumunia si majbaro minoriteto thaj majbut Rroma train ande kava them. Kadi bari diferencia maškar o čačutno numbri rromane manušengo save train ande Rumunia thaj maškar o oficielno numbri ande savo phenelpe sode Rroma train ande Rumunia sikavel amen kaj ande kava them si bari anti-diskriminacia kontra e Rroma. Kadi diskriminacia tradel e rromen te avel len dar thaj te či troman te phenen kaj si Rroma.

Diskriminacia kontra e Rroma sas butivar kerdini ande Rumuniaki themeski historia. Ande angluni vrama e Rromen ande Rumunia naj sas čačimata sar averen pal ande dujto themesko maripen von sesa tradine katar o Ion Antonescu savo sasa šerutno ande Rumuniako governo, majpalal kana avile e komunistura von sesa tradine te train po agor rumuniake amalipasko. Kana e Rumuniake manuša kerde revolucia kontra o Nikolae Čaušesku thaj kontra lesko režimo ando decembri 1989-to berš e Rumuniake manuša lije te keren majbari diskriminacia kontra e Rroma. Duj berš majpalal kana nakhli e revolucia kava bi-hatjaripe kontra e Rroma anda sar rezultato te či nakhel ni jekh čhon bi varesavi tortura kontra e Rroma.E rromane gava sesa dukhadine, e rromane khera sesa phabardine, pala-dadeske barvalipena sesa litjhardine, e manuša sesa tradine andar pire khera thaj varesave či džangle te irinpe palpale gothe kaj traisarde.

Adjes či-patjavipe thaj či- kamipe kontra e Rroma si but buvljardo ande Rumuniako amalipen. Na dumutani anketa savi kerda e agencia pala o rodipen thaj inter-etnikani ralacia ando foro Cluj-Napoca sikada kaj 38.8 procentura katar e Rumunikae manuša save si anketirime thaj 40.7 procentura ungrikane manuša save train ande Rumunia či denas šaipen e Rromen te train ende Rumunia. Na dumutani anketa savi si kerdini katar o žurnalo Agence

France-Presse sikada kaj trin katar štar manuša save si anketirime či kamenas e rromen te aven lenge perutne. Rasno diskriminacia si akanutno rromano problemo ande Rumunia.

E policiaki tortura pala o dukhavipen e rromengo džal kade dur thaj varekana e policajcura vazden e jagale pe Rroma vi kana godo či trubun. Sar rezultato e Rroma si dukhadine katar e policajcura pal varekana vi mudardine. Varekana e policajcura korkorevojako džan ande thana kaj train e Rroma thaj keren bilačhimata. E Europako centro vaš e rromane čačimata kerda monitoring te dikhel sarsavi si e relacia maškar e policajcura thaj e Rroma thaj majpalal phangla kaj e Rumuniako zakono si problemo thaj del e policajcuren šaipen te keren bilačhmata kontra e Rroma. E Rumuniako governo phenel kaj si baro kriminalo maškar e Rroma thaj godolese e piolicia kerel kadale intervencie kontra e Rroma. Varesave dukhavimata save e policajcura kerde kontra e Rroma naj si raportirime/phendine godolese kaj e Rromen si dar e policajcurendar, thaj pe dujto rig varesave Rroma či patjan kaj lenge rovipaske lila ka krisinpe korektno.

Bare dukhavimata save si kerdine kontra e Rroma sesa svakodjivesutno problemo ande Rumunia ande 1990-to berš, baxtasa kadi violencia naj majbut akana bari sar sas. Numaj violencia/zor e gadžengi kontra e Rroma vi majdur kerelpe pal varekana e gadže kadi violencia/zor keren korkore vojako.Kana si e Rroma dukhadine vol kana vareko dukhavel len e šerutne insitucie či keren lačhe akcije tha či došaren vol roden e manuša save kerde došalipen. E Europako centro vaš e rromane čačimata phangla kaj e dukhadine Rromen naj sas šaipen te keren kompenzacia pala o kriminali kaj sas kerdino kontra lende ande 1990-to berš. Varesave rromane krisimata sesa vazdine po internacionalno nivo sar e rromengo tradipen ando foro Hădăreni, varesave jurisdikane aktivitetura si kerdine numaj na vi agorime.

E Europako centro vaš e rromane čačimata kerel vi aver butja ande relacia pala e Rroma:

- Šaipen e rromengo te alosaren e politikake reprezentantura
- Baro numbri rromane čhavrenge save si pe ulica
- Rasizmo kontra e rromane čhavre kana šuvenpe/thonpe ande specialne institucie te vareko aver lel sama pe lende
- Rasizmo kontra e Rroma ande Rumuniako edukaciako sistemo, či-kamipen e gadžengo te thon e rromane čhavren ande škole rasno segregacia rromane čhavrenge ande rumuniake škole, rasizmo kontra e rromane čhavre ande rumuniake škole
- Rasizmo ande relacia te e Rromen avel adekvatne khera

- Rasizmo kontra e Rroma ande medicinake institucie
- Diskriminacia kontra e Rroma te si len čačipen te butjaren
- Diskriminacia kontra e Rroma te si len sar averen tretmano kana džan ande varesave oficielne insitucie.

Po agor kadale raportosko si but rekomendacia pala e Rumuniako governmento, sar te shukarel situacia e Rromengi ande Rumunia.

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THE ROMA (Gypsies) remain the most deprived ethnic group of Europe. Their fundamental rights are threatened almost everywhere. Racist violence and discrimination against Roma in employment, education, health care and other services is common in many societies. Hate speech against Roma deepens the negative stereotypes which pervade European public opinion.

The *European Roma Rights Center* is an international public interest law organisation which monitors the human rights situation of Roma and provides legal defence in cases of human rights abuse. The *ERRC* is governed by an international board of directors. Romani organisations and Romani individuals throughout Europe contribute time and expertise to the *ERRC*. The *ERRC* is a cooperating member of the *International Helsinki Federation for Human Rights* and is an NGO in special consultative status with the Economic and Social Council of the United Nations, as well as with the Council of Europe.

Impunity is an unwritten covenant according to which actions against Roma are not governed by the same rules as those for non-Roma. Where Roma are concerned, violent attack, denial of basic rights, and blatant or subtle racial discrimination as a rule go unpunished or inadequately punished in Romania.

Major episodes of community violence against Roma – deadly pogroms featuring mass arson and mob killing – have resulted in travesties of justice, in those instances where legal action has been taken at all.

Impunity extends to nearly all spheres of social life in Romania: even those Roma spared the indignity and suffering of racially motivated violence live daily in a state of impunity, in practice unprotected from unequal treatment.